

1 Clayton is in office."

2 Do you see that?

3 A. I do.

4 Q. Who is Jay Clayton?

5 A. He was the head of the SEC at the time.

6 Q. Did you have a conversation with

7 Mr. Garlinghouse about whether Chairman Clayton

8 would opine on XRP?

9 MR. DRYLEWSKI: Objection to form.

10 During the time she was at the company or

11 after she left?

12 BY MR. SYLVESTER:

13 Q. Let's start with after you left.

14 A. The question again?

15 Q. Sure.

16 Did you have a conversation with

17 Mr. Garlinghouse about whether or not

18 Chairman Clayton would opine on XRP after you left

19 Ripple?

20 A. I would say no, I didn't, because that's a
21 very specific question. So no.

22 Q. Okay. Did you have a conversation with

23 Mr. Garlinghouse about whether or not Jay Clayton

24 would opine on XRP while you were a CCO of Ripple?

25 MR. DRYLEWSKI: Objection to form.

1 I'm going to instruct you not to answer to
2 the extent it divulges communications with Ripple's
3 lawyers.

4 THE WITNESS: I don't believe I can answer
5 that question in that context.

6 BY MR. SYLVESTER:

7 Q. Okay. Did you ever speak with
8 Mr. Garlinghouse about any meeting he had with
9 Chairman Clayton?

10 A. No.

11 Q. Do you have an understanding of whether or
12 not Mr. Garlinghouse ever met with Chairman Clayton?

13 MR. DRYLEWSKI: Exclude from your answer
14 any communications that you had with Ripple's
15 counsel.

16 THE WITNESS: The answer would be no.

17 MR. SYLVESTER: Counsel, so if she learned
18 from counsel that Mr. Garlinghouse met from
19 Chairman Clayton, you're instructing her not to
20 answer on the basis --

21 MR. DRYLEWSKI: I've asked her to exclude
22 from her answer the substance of any communications
23 she had between her and Ripple's counsel.

24 MR. SYLVESTER: I just mean did she learn
25 of the fact of the meeting, though.

1 MS. ZORNBERG: So let me try to help here.

2 As a yes-or-no question, from any source,
3 did you ever learn one way or another whether
4 Brad Garlinghouse had met with Jay Clayton?

5 THE WITNESS: And I said no. And that was
6 my answer.

7 BY MR. SYLVESTER:

8 Q. Okay. I wasn't sure --

9 A. I know.

10 Q. Just so you know, Ms. O'Gorman, I'm not
11 trying to be an obstructionist, I wasn't sure if you
12 knew and were not answering on the basis of your
13 counsel's instruction.

14 Let's move on.

15 A. Yeah.

16 Q. Okay.

17 Do you have an understanding from any
18 source whether or not anyone at Ripple met with the
19 SEC prior to the filing of this lawsuit?

20 MR. DRYLEWSKI: Object to form.

21 You can answer the question, but do not
22 divulge the substance of any communications you may
23 have had with Ripple's counsel.

24 THE WITNESS: I did not, no.

25 / /

1 BY MR. SYLVESTER:

2 Q. Okay.

3 Are you aware of anyone at the SEC ever
4 telling anyone at Ripple that the sales of XRP were
5 not the sales of securities?

6 MS. ZORNBERG: Sorry.

7 MR. SYLVESTER: I can do it --

8 MS. ZORNBERG: Can you read that question
9 again? I missed it.

10 (Record read by the reporter
11 as follows:

12 QUESTION: Are you aware of
13 anyone at the SEC ever telling
14 anyone at Ripple that the sales of
15 XRP were not the sales of
16 securities?)

17 MS. ZORNBERG: I think you can answer that
18 question as a "yes" or a "no" based on your personal
19 knowledge.

20 THE WITNESS: Sure.

21 No, I'm not aware.

22 BY MR. SYLVESTER:

23 Q. Okay. Turning again to Exhibit A03, the
24 second paragraph, do you see the phrase where you
25 write:

1 "Multiple ex-SEC
2 regulators/lawyers arguing the
3 Howey test in our favor"?

4 A. I do see that, yes.

5 Q. In that sentence, is "our favor" Ripple's
6 favor?

7 A. It is.

8 Q. Okay. And in that sentence, when you say
9 "arguing the Howey test in our favor," are you
10 referencing application of the Howey test to XRP?

11 A. To the best of my recollection, that would
12 be correct, yes.

13 Q. Okay.

14 Going back in time to the time when you
15 read the December 2016 [REDACTED] report --

16 A. Okay.

17 Q. -- at that point in time, did you
18 understand that the Howey test was what would be
19 applied to determine whether or not XRP was a
20 security?

21 MR. DRYLEWSKI: I'm going to object to
22 form. Calls for a legal conclusion.

23 I'm going to instruct the witness not to
24 divulge the substance of any communications that you
25 had with Ripple's lawyers.

1 If you can answer the question without
2 doing that, subject to Ripple's lawyer, you can
3 answer the question.

4 THE WITNESS: I will preface it by saying
5 I'm not a lawyer, but yes, that was my
6 understanding.

7 BY MR. SYLVESTER:

8 Q. Is that an understanding that you obtained
9 from your review of the 2016 [REDACTED] paper?

10 A. It may have been. I just can't say.

11 Q. Okay.

12 Prior to the 2016 [REDACTED] paper, can
13 you recall whether or not you had an understanding
14 that the Howey test is what would apply to the sales
15 of XRP?

16 MR. DRYLEWSKI: Same objection --

17 MS. ZORNBERG: Object to form.

18 MR. DRYLEWSKI: -- same instruction.

19 THE WITNESS: I would have to speculate on
20 that. And if I were to speculate, I would say no --
21 no, I don't know. I don't recall.

22 BY MR. SYLVESTER:

23 Q. Okay. Let's turn to the second page of
24 AO3, please.

25 Ms. O'Gorman, do you see in the middle of

1 the page, there's a May 29th, 2019 email that you
2 appear to have sent to Mr. Garlinghouse?

3 A. I do see that, yes.

4 Q. Do you recall sending this email?

5 A. I do.

6 Q. Okay. Is it fair to say that in this
7 email, you're conveying to Mr. Griffin certain
8 topics of conversation from a conversation you had
9 with Mr. Garlinghouse?

10 MS. ZORNBERG: Object to form.

11 THE WITNESS: It would be fair to say,
12 yes.

13 BY MR. SYLVESTER:

14 Q. Okay. Do you see the second paragraph
15 that starts:

16 "Anyway, we had a grand old
17 chat."

18 A. Yeah. Yes, I do.

19 Q. Is the "we" in that paragraph you and
20 Mr. Garlinghouse?

21 A. Yes.

22 Q. The second sentence says:

23 "He mentioned Ripple's CFTC
24 strategy."

25 Do you see that?

1 A. I do.

2 Q. Is the "he" in that sentence
3 Mr. Garlinghouse?

4 A. It is.

5 Q. What was Ripple's CFTC's strategy
6 according to Mr. Garlinghouse?

7 MR. DRYLEWSKI: Objection to form.

8 THE WITNESS: I think I used the wrong
9 terminology there. This was personal email,
10 meaning -- is it the strategy piece that you're
11 asking about?

12 BY MR. SYLVESTER:

13 Q. Just what do the words "CFTC strategy"
14 mean as used by Mr. Garlinghouse or by you in this
15 email?

16 MR. DRYLEWSKI: Object to form.

17 THE WITNESS: Object to form.

18 It meant that CFTC was forming a committee
19 on the digital assets, and there was talk from
20 Patrick, not Brad, about him potentially being a
21 member on that committee, subject to a CFTC
22 agreement, of course, him being a subject matter
23 expert on blockchain technology and digital assets
24 having been at Ripple for many years.

25 / /

1 BY MR. SYLVESTER:

2 Q. Is the "him" in that sentence Mr. Griffin?

3 A. Patrick. Patrick, yes.

4 Q. Thank you.

5 MR. SYLVESTER: Okay. Let's move on to
6 Exhibit 4, please.

7 (Whereupon, Deposition Exhibit AO-4
8 was marked for identification.)

9 MR. SYLVESTER: Jorge, will you also get
10 44, please?

11 MR. TENREIRO: Sure.

12 (Whereupon, Deposition Exhibit AO-44
13 was marked for identification.)

14 ZOOM PARTICIPANT: What number exhibit is
15 this exhibit, please?

16 MR. SYLVESTER: It's 4, and also, 44.

17 MS. ZORNBERG: 4 and 44.

18 ZOOM PARTICIPANT: Thank you.

19 BY MR. SYLVESTER:

20 Q. So, Ms. O'Gorman, I'm just going to ask
21 you first to -- a question about Exhibit 4, which
22 appears to be a one-page email from Mr. [REDACTED] to you
23 sent on June 11th, 2015.

24 Do you see that?

25 A. Mh-hmm. I do.

1 Q. Now, I'm going to represent for the record
2 that the attachment to this email was initially
3 withheld by Ripple's counsel for privilege.

4 A. Okay.

5 Q. But Ripple's counsel has since confirmed
6 that the attachment to this email is identical to
7 Exhibit 44 that you have in front of you, which it
8 was produced without a privilege assertion.

9 So for purposes of my questions, I'm going
10 to treat Exhibit 44 as the attachment to this email,
11 since it's an identical document.

12 A. Fine.

13 Q. Okay. You received this email from
14 Mr. [REDACTED] about a month after you started at Ripple;
15 is that right?

16 A. It says June of 2015, so it would have
17 been a number of months. I started in February.

18 Q. Thank you.

19 And attached to this email is a memo that
20 is entitled, "Analysis of whether XRP is a security
21 for the purposes of federal and state regulation."

22 That's Exhibit 44.

23 Do you see that?

24 A. I do.

25 Q. Okay. Did you read this memo around the

1 time that you received the June 2015 email from
2 Mr. [REDACTED]

3 A. I have no recollection of reading this
4 memo.

5 Q. Just to be clear, do you have any
6 recollection of reading the memo at any point in
7 time at your tenure at Ripple?

8 A. I actually do not, no. No recollection.

9 Q. Okay.

10 Do you recall -- strike that.

11 Were you aware -- strike that.

12 Did you discuss your receipt of this memo
13 with anyone in around June of 2015?

14 MS. ZORNBERG: Object to form. And object
15 on grounds -- just to make a clear privilege record
16 of the position the company has taken, this memo has
17 been produced as a -- as a non-privileged document,
18 but, first of all, I think it's moot because she
19 doesn't remember reading it. But any discussions,
20 if she had recalled, discussions with counsel about
21 the memo, we are still asserting privilege as to
22 that.

23 But with that caveat, please go ahead and
24 ask your questions.

25 MR. SYLVESTER: I think we're on the same

1 page.

2 Q. Apart from conversations with counsel, do
3 you recall discussing the existence of this legal
4 memo with anyone at Ripple?

5 A. I do not recall, no.

6 Q. Can you turn with me to the back page of
7 Exhibit 44, please.

8 A. Sure.

9 Q. The final sentence of the memo says:

10 "To mitigate these risks,
11 Ripple Labs should avoid touting
12 the potential profits that buyers
13 of XRP will derive from its
14 appreciation of value, and instead,
15 focus on its intrinsic utility."

16 Do you see that?

17 A. I do.

18 Q. Moving away from the memo, understanding
19 you didn't read it, or have no recollection of
20 reading it, while you were Ripple's CCO, did you
21 understand the substance of that sentence?

22 MS. ZORNBERG: Object.

23 MR. DRYLEWSKI: Object --

24 MS. ZORNBERG: Objection. That is an
25 entirely improper question.

1 MR. SYLVESTER: Why?

2 THE WITNESS: Because I didn't read it.

3 MR. DRYLEWSKI: No, hold on. There's no
4 question for you to answer right now.

5 MR. SYLVESTER: I'm not sure why that's
6 improper.

7 MS. ZORNBERG: Please restate your
8 question.

9 MR. SYLVESTER: Okay.

10 Q. Ms. O'Gorman, I read the final sentence to
11 you. You heard that, correct?

12 A. I did, yes.

13 Q. While you were Ripple's CCO, did you
14 understand the substance of that sentence to be
15 true?

16 MS. ZORNBERG: Objection. Ridiculous
17 question.

18 MR. SYLVESTER: I'm not sure what the
19 objection is, I mean, other than ridiculousness.

20 MS. ZORNBERG: You're reading her sentence
21 now in 2021, by my watch, and you're saying, when
22 you were CCO five years ago, did you understand what
23 that sentence meant?

24 MR. SYLVESTER: No, that's not what I
25 asked.

1 MS. ZORNBERG: All right. So put a
2 question that's sensible.

3 BY MR. SYLVESTER:

4 Q. All right. Let's try this again.

5 When you were Ripple's CCO --

6 A. Yes.

7 Q. -- did you understand that Ripple Labs
8 should avoid touting the potential profits that
9 buyers of XRP will derive from its appreciation of
10 value, and instead, focus on its intrinsic utility?

11 MS. ZORNBERG: Object to form.

12 If you understand the question, you can
13 answer.

14 I'm also going to place an objection
15 because you're reading one sentence of a memo she
16 didn't read, you're purposely avoiding reading any
17 other sentence in that same paragraph, like XRP
18 is --

19 MR. SYLVESTER: Counsel, please, enough,
20 no testimony. That's twice.

21 MS. ZORNBERG: I'm not testifying.

22 MR. SYLVESTER: Please, don't.

23 MS. ZORNBERG: I think it's an improper
24 line of questioning.

25 MR. SYLVESTER: I think it's improper for

1 you to testify for the witness.

2 MS. ZORNBERG: My objection is noted for
3 the record.

4 MR. SYLVESTER: And my objection is your
5 testifying is noted.

6 THE WITNESS: Well, I'm reading this
7 sentence directly from this memo, so I would have to
8 say no to that question.

9 MR. SYLVESTER: Let's move on to
10 Exhibit 5, please.

11 (Whereupon, Deposition Exhibit AO-5
12 was marked for identification.)

13 BY MR. SYLVESTER:

14 Q. So, Ms. O'Gorman, this is a rather lengthy
15 exhibit. Let me start with this is an email from
16 [REDACTED] at [REDACTED] to Mr. Larsen and others
17 sent on July 10th, 2015.

18 You're not copied on this email, so my
19 question to you is just whether you're familiar with
20 the attachment, the 2015 Ripple Trade BSA/AMLOFAC
21 Risk Assessment?

22 A. I'm familiar with it, yes.

23 Q. Did you have a hand in preparing it?

24 A. Yes.

25 Q. Okay. What was your role in the

1 preparation of that document?

2 A. I was BSA officer at the time.

3 Q. And specific to this document, did you
4 draft it?

5 A. [REDACTED] drafted it.

6 Q. And what was your role with respect to the
7 preparation of this document?

8 MR. DRYLEWSKI: Objection to form.

9 THE WITNESS: The oversight and inclusion.

10 BY MR. SYLVESTER:

11 Q. Is there any reason to believe that
12 anything in this document is not accurate?

13 MR. DRYLEWSKI: Objection to form.

14 For the record, this is a lengthy
15 document.

16 MR. SYLVESTER: Yeah.

17 MR. DRYLEWSKI: You're asking her to
18 confirm the accuracy of everything in this document
19 right now?

20 MR. SYLVESTER: I'm asking more of a
21 process question.

22 Q. Did you supply the information in this
23 document?

24 MS. ZORNBERG: Object to form.

25 And has the witness taken time to actually

1 read the document sitting here? And is that
2 something that you want her to do to answer the
3 question?

4 MR. SYLVESTER: I don't want her to read
5 the entire document. I would like to know what her
6 role was with respect to the document, and my
7 question was, did she supply the information in the
8 document?

9 MR. DRYLEWSKI: Any of the information in
10 the document?

11 MR. SYLVESTER: Yes.

12 MR. DRYLEWSKI: If you can answer that
13 question -- and, again, feel free to familiarize
14 yourself again with it. If you can answer that
15 question, go ahead.

16 I object to form.

17 THE WITNESS: I assume you're talking
18 about the risk assessment piece here and not terms
19 with [REDACTED] number 1.

20 And number 2 --

21 MR. SYLVESTER: Yeah, sorry, to clarify my
22 question, I just mean the attachment.

23 THE WITNESS: Okay.

24 MR. DRYLEWSKI: But feel free to look at
25 that attachment if you need to to answer that

1 question.

2 BY MR. SYLVESTER:

3 Q. Did you supply any of the information in
4 this document?

5 MR. DRYLEWSKI: Same objection.

6 MS. ZORNBERG: Yeah.

7 THE WITNESS: "Supply" is a big word here
8 in this case. But did I participate in the
9 publication of this document and drafts thereof?

10 Yes, I did.

11 BY MR. SYLVESTER:

12 Q. Okay. Who else at Ripple, if any,
13 participated in the drafting of this document?

14 A. Possibly -- it's a long time ago -- [REDACTED]
15 [REDACTED] legal.

16 MR. DRYLEWSKI: Object to the form of the
17 last question.

18 BY MR. SYLVESTER:

19 Q. Moving away from the document, setting it
20 to one side --

21 A. Okay.

22 Q. -- I'm just asking you a question about,
23 in 2015, when you were Ripple's CCO.

24 A. Okay.

25 Q. Did you have an understanding that XRP at

1 that time had very limited commercial use?

2 MR. DRYLEWSKI: Objection to form.

3 Exclude from your answer any conversations
4 you may have had with legal.

5 MS. ZORNBERG: You also said in 2015 when
6 she was CCO.

7 So you want to direct her only to the
8 latter portion of the year?

9 Just can you fix a time, because she had
10 two different titles in that year?

11 MR. SYLVESTER: Sure. It's a good point.

12 Q. Let's go with the entirety of 2015.

13 So while you were at Ripple, so February
14 through December of 2015, did you have an
15 understanding at that point in time that XRP had
16 very limited commercial use?

17 MR. DRYLEWSKI: Same objection.

18 THE WITNESS: That was my understanding,
19 yes.

20 BY MR. SYLVESTER:

21 Q. Okay. Same time period, February to
22 December 2015, did you have an understanding that
23 XRP was mainly held as a speculative asset?

24 MR. DRYLEWSKI: Objection to form.

25 THE WITNESS: No. That would not have

1 been true.

2 BY MR. SYLVESTER:

3 Q. In 2015, while you were at Ripple, what
4 was -- what were XRP's uses, other than speculation?

5 MR. DRYLEWSKI: Objection to form.

6 THE WITNESS: So let's talk about Ripple
7 Trade, which was a software, which was a software
8 view into XRP Ledger or the Ripple consensus ledger,
9 the blockchain technology under which XRP sat.
10 Ripple Trade used XRP.

11 BY MR. SYLVESTER:

12 Q. How did Ripple Trade use XRP?

13 A. XRP was the currency native to XRP Ledger,
14 so in viewing transactions conducted on XRP Ledger,
15 XRP would have been used as a medium of exchange by
16 regulatory users, and also, used as a postage stamp,
17 let's just say, for any transactions that were
18 conducted on XRP Ledger, or the consensus ledger, to
19 make sure that a little part of it was destroyed in
20 all transactions.

21 Depending on the amount of transaction
22 activity conducted on the Ledger at the time, the
23 value would increase or decrease. The amount of XRP
24 destroyed would increase or decrease.

25 Q. When Ripple Trade was in existence, could

1 someone purchase XRP using Ripple Trade?

2 A. No.

3 MR. DRYLEWSKI: Sorry, let me jump in.

4 Objection to form.

5 MR. SYLVESTER: Okay. Let's move on to
6 Exhibit 8, please.

7 (Whereupon, Deposition Exhibit AO-8
8 was marked for identification.)

9 BY MR. SYLVESTER:

10 Q. Actually, before we move on, let's just
11 pop back to our current exhibit, which is AO5.

12 Will you turn with me to page 6?

13 MR. DRYLEWSKI: Page 6 of the attachment?

14 MR. SYLVESTER: Yes. I apologize, page 6
15 of the attachment, ending in Bates -3202.

16 THE WITNESS: Okay.

17 BY MR. SYLVESTER:

18 Q. Ms. O'Gorman, do you see the second
19 paragraph that starts with "The use of the network
20 remains nascent"?

21 A. I do.

22 Q. Okay. The next sentence reads:

23 "Currently, XRP has very
24 limited commercial use and is
25 mainly held as a speculative asset

1 by companies and individuals that
2 believe it will rise in value as
3 the Ripple network expands."

4 Do you see that?

5 A. I do.

6 Q. Do you have any reason to believe that
7 that sentence is inaccurate at the time it was
8 written?

9 MR. DRYLEWSKI: Objection to form.

10 THE WITNESS: In hindsight, yes, I do
11 believe it to be inaccurate, yes.

12 BY MR. SYLVESTER:

13 Q. How -- if you know, how did the sentence
14 make it into this document?

15 MR. DRYLEWSKI: Objection to form.

16 THE WITNESS: I don't know how it made it
17 into the document. I can't state.

18 BY MR. SYLVESTER:

19 Q. At the time, in 2015, just to be clear, it
20 was your view that the statement that XRP is mainly
21 held as a speculative asset is not accurate?

22 MR. DRYLEWSKI: Objection to form.

23 THE WITNESS: I think I already answered
24 that, didn't I?

25 / /

1 BY MR. SYLVESTER:

2 Q. So that was your view at the time?

3 A. What --

4 MR. DRYLEWSKI: Same objection.

5 THE WITNESS: What was my view? Sorry?

6 I said --

7 BY MR. SYLVESTER:

8 Q. I think you testified that in hindsight,
9 the sentence is inaccurate?

10 A. Yes.

11 Q. So I'm just trying to clarify that.

12 Putting you back in 2015, you're at
13 Ripple, at that time, would you have thought that
14 this sentence is inaccurate?

15 MR. DRYLEWSKI: Objection to form.

16 THE WITNESS: Very hard to say in 2015. I
17 don't recall.

18 MR. SYLVESTER: Okay. Let's move on to
19 the next one.

20 Q. So, Ms. O'Gorman, while you take a look at
21 the document, I'll state for the record it's an
22 email chain. The top email is from Ms. O'Gorman to
23 Mr. [REDACTED] dated October 31st, 2016.

24 ZOOM PARTICIPANT: Exhibit number?

25 MR. SYLVESTER: Eight.

1 ZOOM PARTICIPANT: Eight?

2 MR. SYLVESTER: That's correct.

3 ZOOM PARTICIPANT: Thank you.

4 BY MR. SYLVESTER:

5 Q. Ms. O'Gorman, have you had a chance to
6 review A08?

7 A. I have.

8 Q. Okay. Do you see near the bottom of the
9 first page of Exhibit 8 an email from Patrick
10 Griffin in which he says:

11 "Can XRP be both a currency,
12 FinCEN territory" -- excuse me --
13 "FinCEN territory and a commodity
14 CFTC territory?"

15 A. I -- I see it.
16 I presume this is an email to Brad. Is
17 it?

18 Q. It's unclear from the chain who the
19 recipient is except the top email above that appears
20 to be you responding.

21 Do you see that?

22 A. I do, yeah.

23 Q. Okay. And it's responding to Mr. Griffin
24 and a cc to Mr. Garlinghouse.

25 Do you see that?

1 A. I do see that, yes.

2 Q. Okay. And can you please read to me the
3 first couple of sentences of your reply to
4 Mr. Griffin's question?

5 A. So it's question:

6 "Can XRP be both a currency
7 FinCEN territory and a commodity
8 CFTC territory?"

9 I say:

10 "Yes, it can and more" --

11 (Reporter clarification.)

12 MR. DRYLEWSKI: You have to read slower.

13 Not a problem.

14 THE WITNESS: I'm reading from it.

15 "Yes, it can, and more. IRS
16 is of the opinion that virtual
17 currency is property. CFTC treats
18 it as a commodity. FinCEN has
19 stated their opinion that virtual
20 currency operates as real currency
21 in some environments, and the SEC
22 may well come out on the side that
23 certain cryptocurrencies are
24 securities. It's an interesting
25 conundrum and one that begs for a

1 more uniform regulatory approach at
2 the federal (and state levels) but
3 the probability of that ever
4 happening is extremely low."

5 BY MR. SYLVESTER:

6 Q. Okay. So as of October 2016, you're aware
7 that XRP could be classified as both a virtual
8 currency and a security; is that right?

9 MR. DRYLEWSKI: Objection to form. Calls
10 for a legal conclusion.

11 BY MR. SYLVESTER:

12 Q. You can answer.

13 A. So, yeah, it was -- already had been
14 stated by many regulators that it fell under their
15 purview. There was a potential risk that XRP could
16 be considered a security.

17 Q. Okay. You state a number of things in
18 this paragraph, including the IRS's view, the CFTC's
19 view, FinCEN's view, and possibly the SEC's view.
20 Is that fair?

21 A. That's fair, yeah.

22 Q. How did you come to understand --

23 MS. ZORNBERG: I'm just going to object to
24 "possibly the SEC's view."

25 I think it misstates what she wrote in the

1 email.

2 BY MR. SYLVESTER:

3 Q. You wrote in the email:

4 "The SEC" --

5 (Reporter clarification.)

6 BY MR. SYLVESTER:

7 Q. Ms. O'Gorman, you write in the email:

8 "The SEC may welcome out on

9 the side that certain

10 cryptocurrencies are securities."

11 Is that right?

12 A. I did write that, yes.

13 Q. Okay. So my question is, how did you come
14 to that view?

15 MS. ZORNBERG: Objection.

16 MR. DRYLEWSKI: Objection to form.

17 I'm going to instruct the witness not to
18 answer to the extent it divulges the substance of
19 any communications that you had with Ripple's
20 lawyers, inside or outside counsel.

21 Do you understand?

22 MS. ZORNBERG: Object to the term "view"
23 as I don't know what view you're referring to
24 specifically.

25 You can answer if you understand.

1 BY MR. SYLVESTER:

2 Q. If you understand the question, you can
3 answer.

4 A. Based on what Alex just said, I don't
5 think I can pull that apart from legal, so I can't
6 answer.

7 Q. So this is an email that you wrote in
8 October 2016.

9 Can you recall an earlier occasion when
10 you expressed the view that XRP could be classified
11 differently by different regulators?

12 MR. DRYLEWSKI: Objection to form.

13 THE WITNESS: According to above, I may
14 have. I don't know.

15 BY MR. SYLVESTER:

16 Q. Other than yourself and counsel, are you
17 aware of anyone at Ripple taking any steps to learn
18 more about the potential classification of XRP as a
19 security under U.S. securities laws?

20 MR. DRYLEWSKI: Object to form.

21 THE WITNESS: Yes.

22 BY MR. SYLVESTER:

23 Q. Who?

24 A. For one, it would have been Ryan Zagone,
25 who reported directly to me, because I tasked him

1 with that.

2 Q. When did you task Mr. Zagone with taking
3 steps to learn more about the potential for
4 classification of XRP as a security under the U.S.
5 securities laws?

6 A. It --

7 MS. ZORNBERG: And I would just -- just
8 pause.

9 To the extent that it involved any
10 communications with counsel or direction of counsel,
11 please exclude that from your answer.

12 THE WITNESS: Yeah.

13 The way you word the question, I never
14 tasked him with classification. I tasked him with
15 doing an analysis against the Howey test.

16 But that was a -- with counsel. So ...

17 MS. ZORNBERG: Okay.

18 BY MR. SYLVESTER:

19 Q. When was this?

20 A. I would say January of 2017, but I could
21 be wrong by a day or two or a week or two.

22 Q. Was the genesis of this project your
23 review of the late 2016 [REDACTED] paper?

24 A. Yes.

25 MR. DRYLEWSKI: Objection to form.

1 BY MR. SYLVESTER:

2 Q. I'm a little confused about counsel's
3 involvement, so let me ask.

4 A. Please.

5 Q. Did Mr. Zagone do the analysis with
6 counsel; is that your testimony?

7 MS. ZORNBERG: So I think -- I think we're
8 going to need a break.

9 MR. SYLVESTER: Okay. To figure out
10 privilege?

11 MS. ZORNBERG: Yeah.

12 THE WITNESS: Okay.

13 MS. ZORNBERG: And I guess the question
14 is, given the hour, that it's one o'clock, I don't
15 know if Ms. O'Gorman wants to take a lunch break?

16 MR. TENREIRO: Let's finish this line,
17 though, right, and then we can take a lunch?

18 MS. ZORNBERG: That's fine.

19 MR. TENREIRO: Because this is very
20 discrete.

21 MS. ZORNBERG: Yep. Okay. So then we'll
22 just step next door and come -- come right back.

23 THE VIDEOGRAPHER: Off the record at
24 1:00 p.m.

25 (Whereupon, a recess was taken.)

1 THE VIDEOGRAPHER: Okay. This is the
2 beginning of File Number 6.

3 We're back on the record at 1:04 p.m.

4 MR. SYLVESTER: Kat, would you mind
5 reading back the last question I asked?

6 (Record read by the reporter
7 as follows:

8 QUESTION: Did Mr. Zagone do
9 the analysis with counsel; is that
10 your testimony?)

11 MS. ZORNBERG: Okay. So let me just
12 interject on behalf of Ripple Labs, and make a
13 proffer based on our factual information, which is
14 that both Mr. Zagone and Ms. O'Gorman had
15 communications with [REDACTED] in connection with
16 that assignment, and so we -- we're gonna claim --
17 assert privilege and direct the witness not to
18 answer on substantive questions about the
19 assignment.

20 But you have -- you have the witness's
21 answer about the fact that there was such an
22 assignment.

23 MR. TENREIRO: Can we have the time of the
24 assignment? The date the assignment was given?

25 MR. SYLVESTER: Did you say January --

1 THE WITNESS: I thought we said
2 January 2017.

3 MR. SYLVESTER: January 2017?

4 Yeah. Sorry.

5 MS. ZORNBERG: To the best of her
6 recollection.

7 THE WITNESS: Yeah. Yeah.

8 MR. TENREIRO: Well, you were giving a
9 proffer, so that's why I was asking.

10 MS. ZORNBERG: Yeah. I'm done with the
11 proffer, so anything else we'd have to take question
12 by question.

13 BY MR. SYLVESTER:

14 Q. Okay. Did you have any conversations with
15 Mr. Zagone about this assignment prior to the
16 involvement of Ripple's counsel?

17 A. I may have. I can't recall.

18 Q. Did you have any conversations with anyone
19 else at Ripple who was not a lawyer about your
20 assignment to Mr. Zagone prior to Ripple's counsel's
21 involvement?

22 A. Yes.

23 Q. Who?

24 A. Chris Larsen.

25 MS. ZORNBERG: I'm sorry, what was the

1 answer?

2 MR. SYLVESTER: Mr. Larsen.

3 THE WITNESS: Chris Larsen.

4 MR. DRYLEWSKI: You said this is prior to
5 counsel's involvement?

6 I just want to make sure the timing is
7 clear because your answer to the question before was
8 you weren't sure.

9 I'm really just trying to make sure it's a
10 clear record here.

11 THE WITNESS: Okay. So I want to be very
12 clear here as well.

13 I spoke with Chris prior to speaking with
14 [REDACTED] and prior to tasking Ryan about this. So I
15 did.

16 BY MR. SYLVESTER:

17 Q. That's helpful. Thank you.

18 The conversation that you had with
19 Mr. Larsen, is that the conversation we discussed
20 previously about the [REDACTED] report?

21 A. That's right.

22 Q. Okay. In that conversation, did you and
23 Mr. Larsen discuss undertaking this exercise of
24 trying to figure out how -- whether or not XRP might
25 be a security?

1 MR. DRYLEWSKI: Object to form.

2 THE WITNESS: The way you're
3 characterizing it is not -- is not how it was.

4 The article came out from [REDACTED]
5 saying that Bitcoin would not be considered a
6 security and should not be considered a security.
7 And so Chris asked me to look at it to make sure
8 that XRP would also not be considered a security, to
9 the best of my ability. I'm not a lawyer, of
10 course, as you know. Neither is Ryan.

11 BY MR. SYLVESTER:

12 Q. Do you have an understanding at the time
13 of why Mr. Larsen asked you to undertake this task?

14 MR. DRYLEWSKI: Objection to form.

15 THE WITNESS: I mean, I can't speak for
16 Chris, but do you want --

17 BY MR. SYLVESTER:

18 Q. If you have an understanding, if you know.

19 A. He didn't tell me exactly why, but ...

20 Q. Was it because you were CCO?

21 MS. ZORNBERG: Object to form.

22 THE WITNESS: Okay. Yeah. Yeah. I don't
23 know. But I was handling the FinCEN agreement.
24 Maybe he thought it was regulatory in nature. I
25 couldn't say. Regulations reported to me.

1 BY MR. SYLVESTER:

2 Q. Okay. Was the final result of
3 Mr. Zagone's work with legal on the topic of the
4 classification of XRP under the securities
5 laws -- strike that.

6 How, if at all, was the conclusion
7 regarding the classification about XRP under the
8 securities laws memorialized in a documentary form?

9 MR. DRYLEWSKI: Object to form.

10 THE WITNESS: Yeah. The conclusion is
11 very --

12 MS. ZORNBERG: Hold on one sec.

13 Just to make sure, he's not asking you
14 about the substance of any report that involved
15 legal involvement. He's asking you, do you know,
16 yes or no, if there was a document that embodied a
17 conclusion.

18 THE WITNESS: Yes.

19 BY MR. SYLVESTER:

20 Q. There was a document?

21 A. There was.

22 Q. Okay. Who were the authors of that
23 document?

24 MS. ZORNBERG: If you know, and he's not
25 asking you to speculate.

1 THE WITNESS: Yeah. I couldn't say for
2 sure.

3 BY MR. SYLVESTER:

4 Q. Mr. Zagone was one of the authors?

5 A. Yes. Absolutely.

6 Q. Was Mr. [REDACTED] one of the authors?

7 A. I don't remember.

8 Q. Ms. [REDACTED]?

9 A. I don't remember.

10 Q. Can you recall sitting here today any
11 lawyer that was the author of that document?

12 A. Could you show me the document?

13 It might state. I don't really know.

14 MR. SOLOMON: Except for when they ask
15 questions.

16 MR. TENREIRO: We don't have the document.

17 THE WITNESS: Oh, sorry.

18 I don't know.

19 BY MR. SYLVESTER:

20 Q. What's the basis for your recollection
21 that lawyers were involved in the preparation of the
22 document?

23 MR. DRYLEWSKI: Objection.

24 MS. ZORNBERG: I think you're asking --
25 you're calling for privileged information.

1 MR. SYLVESTER: I'm just trying to figure
2 out where the privilege attaches, because she
3 doesn't recall any lawyers that were involved in the
4 drafting of the document?

5 THE WITNESS: No. No. No. No. That's
6 not what --

7 MR. DRYLEWSKI: Nothing to you right now.

8 BY MR. SYLVESTER:

9 Q. You don't remember which lawyers were
10 involved, but you remember lawyers were involved; is
11 that right?

12 MR. DRYLEWSKI: Are we questioning right
13 now?

14 Let's take a step back for a second.

15 MS. ZORNBERG: Yeah. I just want to go
16 slow here.

17 MR. SYLVESTER: Sure.

18 MS. ZORNBERG: Perhaps you can ask
19 Ms. O'Gorman, yes or no -- I mean, I've already made
20 the proffer based on facts that, you know, that
21 lawyers were involved in this assignment and were
22 consulted by both Mr. Zagone and by Ms. O'Gorman.

23 I think that's -- that's enough of a
24 predicate for privilege as to what your last
25 question was.

1 MR. SYLVESTER: Okay.

2 THE WITNESS: That is true.

3 MR. SYLVESTER: Okay. Okay.

4 Q. So was the document that we're talking
5 about that contains this analysis, was that document
6 shared internally among Ripple?

7 MS. ZORNBERG: I'm going to object to
8 form.

9 I don't know if there's a better way to
10 state the question.

11 BY MR. SYLVESTER:

12 Q. Sure. Let's just take it person by
13 person.

14 Was that document shared with
15 Mr. Garlinghouse?

16 A. To the best of my recollection, yes.

17 Q. Was it shared with Mr. Larsen?

18 A. To the best of my recollection, yes.

19 Q. Was it shared with Mr. Larsen around the
20 time it was produced?

21 A. To the best of my recollection, yes.

22 Q. And was it shared with Mr. Garlinghouse
23 around the time it was produced?

24 A. To the best of my recollection, yes.

25 Q. Okay. We talked about your conversation

1 with Mr. Larsen about the [REDACTED] report.

2 To your knowledge, excluding legal, who
3 else at Ripple reviewed the [REDACTED] report?

4 MR. DRYLEWSKI: Objection to form.

5 You can answer that question to the extent
6 it doesn't divulge the substance of any
7 communications that you had with Ripple's lawyers,
8 in or outside counsel. Understood?

9 THE WITNESS: Mh-hmm.

10 Can I say "legal"?

11 MR. DRYLEWSKI: If you can.

12 If you can answer the question without
13 revealing the substance of any communications with
14 counsel, then you can do it.

15 THE WITNESS: Sure.

16 [REDACTED] Patrick Griffin.

17 BY MR. SYLVESTER:

18 Q. Okay. Did you have any conversations with
19 Mr. Griffin about the [REDACTED] report outside the
20 presence of counsel?

21 A. Other than the fact that he had read it,
22 no.

23 Q. Okay.

24 MR. SYLVESTER: I think this might be a
25 good place to break for lunch, if that's all right

1 with the witness is she wants to take a break.

2 THE WITNESS: Sure.

3 MR. DRYLEWSKI: Is that okay with you?

4 THE WITNESS: Yeah.

5 MR. SYLVESTER: Let's go off the record.

6 THE VIDEOGRAPHER: Off the record at

7 1:14 p.m.

8 (Whereupon, a lunch recess was taken.)

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1 AUGUST 4, 2021

1:57 P.M.

2 P R O C E E D I N G S

3 AFTERNOON SESSION

4 THE VIDEOGRAPHER: This is the beginning
5 of File Number 7.

6 We're back on the record at 1:57 p.m.

7 BY MR. SYLVESTER:

8 Q. Okay. Ms. O'Gorman, before we broke, we
9 had a discussion about your talk with Mr. Larsen
10 after the [REDACTED] report came out.

11 Do you remember that?

12 A. I do recall, yes.

13 Q. Okay. And in that conversation,
14 Mr. Larsen asked you to undertake an analysis of the
15 classification of XRP under the U.S. securities
16 laws; is that right?

17 MS. ZORNBERG: Object to form.

18 THE WITNESS: I wouldn't say an analysis.
19 He asked me to look into it.

20 BY MR. SYLVESTER:

21 Q. I see.

22 Other than asking you to look into it,
23 what else do you remember him saying on that topic
24 in the conversation?

25 MR. DRYLEWSKI: Objection to form.

1 Instruct the witness not to answer to the
2 extent that you know Mr. Larsen was conveying any
3 communications that he had with Ripple's counsel.

4 THE WITNESS: Mh-hmm. I think this is
5 asked and answered. I said he read --

6 MR. SYLVESTER: You sure you're not a
7 lawyer?

8 THE WITNESS: -- the article that
9 concerned Bitcoin is not a security, and his point
10 was surely XRP would fall into that same category.

11 BY MR. SYLVESTER:

12 Q. Okay. Did you ask him why he wanted you
13 to undertake -- to look into it?

14 A. No.

15 Q. Did he provide you with any materials,
16 outside of the [REDACTED] report, to help you look
17 into it?

18 A. No. To the best of my knowledge, no.

19 Q. We discussed earlier today that you
20 received a legal memoranda in about June of 2015.

21 Do you remember that?

22 A. The one you presented to me, yes.

23 MS. ZORNBERG: Object to form.

24 THE WITNESS: I saw it today. I don't
25 recall ever reviewing it before or receiving it.

1 BY MR. SYLVESTER:

2 Q. Be that as it may, let me ask this: Did
3 you ask Mr. Larsen why he wanted you to look into
4 this question of XRP's classification under the
5 securities laws in light of the fact that he already
6 had a legal memo on the topic?

7 MR. DRYLEWSKI: Objection to form.

8 MS. ZORNBERG: Objection.

9 THE WITNESS: I did not, because I did not
10 know that he had a legal opinion at the time.

11 BY MR. SYLVESTER:

12 Q. Is that because you didn't read the email,
13 the June 2015 email?

14 MS. ZORNBERG: Objection.

15 MR. DRYLEWSKI: Objection to form.

16 THE WITNESS: May have been. It may have
17 been.

18 MR. SYLVESTER: Okay. Let's look at
19 Exhibit 7, please.

20 (Whereupon, Deposition Exhibit AO-7
21 was marked for identification.)

22 BY MR. SYLVESTER:

23 Q. So, Ms. O'Gorman, Exhibit 7 is a one-page
24 email from you to Mr. Garlinghouse dated
25 November 13th, 2016.

1 Do you see that?

2 A. I see one dated November 21st.

3 Is that the one you're referring to?

4 MR. DRYLEWSKI: The date on the email is
5 November 21st, 2016 on the exhibit you just handed
6 to me.

7 MR. SYLVESTER: Did you hand them 7?

8 MR. TENREIRO: I did.

9 MR. SYLVESTER: It is indeed. Okay. A
10 little bit of exhibit confusion.

11 Let's go off the record for a second.

12 MR. DRYLEWSKI: Sure.

13 MS. ZORNBERG: No, no, no. Why should we
14 go off the record? If you have exhibit confusion,
15 that should count against your seven hours.

16 Please proceed with the deposition.

17 MR. TENREIRO: Okay. Just keep a copy of
18 this one, please.

19 MR. SYLVESTER: Yeah, keep a copy of this
20 one. See if you can find this one.

21 Thanks.

22 Q. Okay.

23 Were you ever asked, Ms. O'Gorman, to
24 prepare a rebuttal to [REDACTED] paper regarding
25 cryptocurrency as a security?

1 MR. DRYLEWSKI: Objection to form.

2 Go ahead.

3 MS. ZORNBERG: I'm instructing the witness
4 not to answer to the extent that it involves
5 communications with counsel.

6 THE WITNESS: It did involve counsel, so I
7 can't really answer that.

8 BY MR. SYLVESTER:

9 Q. Okay. The conversation with Mr. Larsen
10 that we've been discussing, in that conversation, he
11 did not ask you to prepare a rebuttal, did he?

12 A. Oh, no. Absolutely not.

13 Q. Okay.

14 MR. SYLVESTER: Jorge, let's try
15 Exhibit 9.

16 (Whereupon, Deposition Exhibit AO-9
17 was marked for identification.)

18 MR. SYLVESTER: Yes. Okay.

19 Q. So, Ms. O'Gorman, Exhibit A09 I can
20 represent to you was pulled from the internet quite
21 recently but bears a December 7th, 2016 date.

22 Can you see that?

23 A. Yes.

24 Q. Okay. Is this the [REDACTED] paper that
25 we've been discussing?

1 MR. DRYLEWSKI: Feel free to look through
2 the entire document and familiarize yourself before
3 answering any questions.

4 THE WITNESS: Yeah, I ...

5 May have been, yes.

6 BY MR. SYLVESTER:

7 Q. I'm sorry, I couldn't hear your answer.

8 What was it?

9 A. I said, it may have been.

10 Q. Does this look, in substance, to your
11 recollection, about like what the report was that
12 you read in December 2016?

13 MR. DRYLEWSKI: Objection to form.

14 THE WITNESS: To the best of my knowledge,
15 it does.

16 BY MR. SYLVESTER:

17 Q. Okay. If you'll turn to page 11 of the
18 attachment there, numbered at the bottom of the
19 page.

20 Do you see that Roman III analysis under
21 the Howey test?

22 A. Oh, yeah -- sorry -- yes, I do.

23 Q. Okay. And to the best of your
24 recollection, this was the analysis of the Howey
25 test that was within the [REDACTED] report that you

1 read?

2 MS. ZORNBERG: Objection.

3 THE WITNESS: Appears to be.

4 BY MR. SYLVESTER:

5 Q. Ms. O'Gorman, can you turn with me to
6 page 18, please.

7 And do you see Romanette v there starting,
8 "We note"?

9 A. Yeah.

10 Q. Okay. It says:

11 "We note the manner in which
12 the sale of a blockchain token
13 occurs, particularly" -- sorry.

14 "We note that the manner in
15 which the sale of a blockchain
16 token occurs, particularly the
17 promotion and marketing, may also
18 affect the expectation of profits
19 analysis."

20 Did I read that correctly?

21 A. You're asking me?

22 Q. Yeah.

23 A. You seemed to, yes.

24 MR. TENREIRO: We're on page 18.

25 / /

1 BY MR. SYLVESTER:

2 Q. And do you recall reading, in sum or
3 substance, something similar in the [REDACTED]
4 report in December of 2016?

5 MR. DRYLEWSKI: Objection to form.

6 THE WITNESS: I don't recall.

7 BY MR. SYLVESTER:

8 Q. Okay. Please turn with me to page 24 of
9 the document.

10 Page 24 appears to be labeled "Appendix A,
11 A securities law framework for blockchain tokens."

12 Do you see that?

13 A. I do.

14 Q. This appears to be -- do you see the
15 number of questions under -- in each of the headings
16 on this chart?

17 A. I do.

18 Q. Okay. Do you recall looking at this
19 Appendix A in December of 2016?

20 A. Vaguely, yes.

21 Q. Do you recall that the [REDACTED] paper
22 set forth the scoring system for analyzing a digital
23 asset under Howey?

24 A. I do, yes.

25 Q. Did you ever undertake the exercise of

1 assessing XRP under this scoring system?

2 A. I did not.

3 MS. ZORNBERG: Objection.

4 Just -- just an instruction that to the
5 extent that -- you can answer to the extent your
6 answer does not implicate meetings or discussions
7 with counsel.

8 THE WITNESS: It would have involved
9 legal.

10 BY MR. SYLVESTER:

11 Q. Do you have an understanding as to whether
12 anyone at Ripple undertook the scoring analysis set
13 forth in Appendix A?

14 A. I don't know of anyone. I can only speak
15 for myself.

16 Q. Okay.

17 MR. SOLOMON: I was just informed nobody
18 can hear anything, just FYI from remote folks.

19 THE WITNESS: It's muted.

20 MS. ZORNBERG: Can folks on Zoom hear
21 anything?

22 MR. SOLOMON: Somebody unmute and just say
23 "yes."

24 ZOOM PARTICIPANT: We can hear, but we're
25 getting a lot of feedback.

1 MR. SYLVESTER: Okay.

2 MS. ZORNBERG: Okay. I don't know what we
3 can do because there are a lot of technical issues
4 at K&S and the view in the room is that we have to
5 push forward with the deposition.

6 So on a break, we can address it, but
7 otherwise, we're just gonna keep going.

8 MR. TENREIRO: Are you ready for that
9 exhibit?

10 MR. SYLVESTER: Yes. Let's move on to
11 Exhibit 11, please.

12 (Whereupon, Deposition Exhibit AO-11
13 was marked for identification.)

14 BY MR. SYLVESTER:

15 Q. Ms. O'Gorman, Exhibit 11 --

16 ZOOM PARTICIPANT: What's the
17 exhibit number?

18 MR. SYLVESTER: Eleven.

19 Q. Exhibit 11 appears to be an email from you
20 to Mr. Garlinghouse dated, hopefully, January 9th,
21 2017.

22 Do you see that?

23 A. That's correct.

24 Q. Great.

25 Was this email one of the emailed agendas

1 that you provided Mr. Garlinghouse weekly, as you
2 testified earlier?

3 A. No, it's not.

4 Q. I see.

5 Is there any special marking or words you
6 would use for an agenda when you provided that to
7 Mr. Garlinghouse via email?

8 MR. DRYLEWSKI: Objection to form.

9 THE WITNESS: It would have stated
10 "agenda."

11 BY MR. SYLVESTER:

12 Q. Okay. Ms. O'Gorman, do you see about five
13 rows down under item "XRP is not a security
14 research" and "Ripple talking points"?

15 A. Mh-hmm.

16 Q. Okay. Then on the right-hand column, it's
17 corresponding to XRP is not security. It says:

18 "Summary document to be
19 completed by 1/13/17 for discussion
20 with [REDACTED] later in
21 January 2017 when our membership
22 kicks in. Going to schedule
23 meetings with [REDACTED] AOG to
24 attend all discussions."
25 Do you see that?

1 A. I do.

2 Q. And you are AOG, correct?

3 A. That's me.

4 Q. Okay. What was the summary document that
5 was being prepared for discussion with [REDACTED]

6 A. I think, if you see --

7 MS. ZORNBERG: Hold on just one sec.

8 You can answer to the extent that you do
9 not reveal any communications with counsel.

10 THE WITNESS: Okay.

11 Oh, God, can you repeat the question?

12 BY MR. SYLVESTER:

13 Q. Sure.

14 What was the summary document that was
15 being prepared for discussion with [REDACTED]

16 A. It wasn't being prepared for discussion
17 with [REDACTED] It was just a document containing
18 the review or research that we had conducted on --
19 against the Howey test.

20 Q. Is this the same document that Mr. Larsen
21 had asked you to prepare?

22 MR. DRYLEWSKI: Objection to form.

23 THE WITNESS: He hadn't asked me to
24 prepare this specific document, but it was in
25 response to his request.

1 BY MR. SYLVESTER:

2 Q. And what's the discussion with [REDACTED]
3 referenced in this document?

4 A. The discussion with [REDACTED] is we had
5 decided to donate funding to [REDACTED] because
6 they were very active in the cryptocurrency space.

7 Q. And this -- this document had something to
8 do with that donation; is that right?

9 MS. ZORNBERG: Object to form.

10 THE WITNESS: Didn't really have anything
11 to do with the donation. Many cryptocurrency
12 companies provided funding to [REDACTED] and we
13 also wanted to be part of that.

14 BY MR. SYLVESTER:

15 Q. Understood.

16 I'm just trying to figure out the meaning
17 in that sentence "for discussion with [REDACTED]"

18 A. Yeah.

19 Q. Did you or anyone at Ripple present your
20 analysis of XRP status under the Howey test to
21 anyone at [REDACTED]

22 MR. DRYLEWSKI: Object to form.

23 THE WITNESS: No, we did not.

24 BY MR. SYLVESTER:

25 Q. Okay. So this suggests that there was a

1 summary document in the works to be completed prior
2 to a [REDACTED] discussion.

3 Do you agree?

4 MR. DRYLEWSKI: Objection to form.

5 THE WITNESS: That is correct.

6 BY MR. SYLVESTER:

7 Q. But I think what you're testifying to is
8 that that document wasn't shared with [REDACTED]?

9 A. It was not, no.

10 Q. Okay.

11 What exactly is the [REDACTED] membership
12 that's referenced here?

13 A. Funding provided to [REDACTED] It's a
14 nonprofit organization.

15 Q. And Ripple purchased a membership?

16 A. Donated funding towards the work they do.

17 Q. How much money did Ripple donate around
18 January 2017 to [REDACTED]?

19 A. [REDACTED].

20 Q. Who authorized that donation?

21 MR. DRYLEWSKI: Objection to form.

22 THE WITNESS: Chris Larsen.

23 BY MR. SYLVESTER:

24 Q. Did that donation have any connection
25 whatsoever with [REDACTED] issuance of its report

1 in 2016?

2 MR. DRYLEWSKI: Objection to form.

3 THE WITNESS: I believe it was after the
4 report was issued in 2016. So it wouldn't have been
5 connected to it.

6 BY MR. SYLVESTER:

7 Q. Prior to the December 2016 [REDACTED]
8 report, had there been any contact between anyone at
9 Ripple and anyone at [REDACTED]

10 MS. ZORNBERG: Objection to form.

11 THE WITNESS: Yeah, I can't say for sure.

12 BY MR. SYLVESTER:

13 Q. To your knowledge.

14 A. There might have been.

15 Q. Had you had any contact with [REDACTED]
16 prior to December 2016?

17 A. I don't believe so, no.

18 Q. Okay. Prior to the donation to [REDACTED]
19 [REDACTED] after the December 2016 [REDACTED] report,
20 had Ripple ever made an earlier donation to [REDACTED]
21 [REDACTED]

22 A. No.

23 MR. DRYLEWSKI: Objection to form.

24 MR. SYLVESTER: Okay. Let's move on to
25 Exhibit 13, please.

1 (Whereupon, Deposition Exhibit AO-13
2 was marked for identification.)

3 MR. TENREIRO: Thirteen, Nicole.

4 ZOOM PARTICIPANT: Thirteen.

5 BY MR. SYLVESTER:

6 Q. So Exhibit 13 is an email from you,
7 Ms. O'Gorman, to Mr. Garlinghouse dated
8 January 17th, 2017; is that right?

9 A. That's correct.

10 Q. Okay. This is labeled "Compliance weekly
11 update as of 1/13/17."

12 Do you see that?

13 A. I do.

14 Q. Did you send Mr. Garlinghouse weekly
15 updates from the compliance department?

16 A. I did.

17 Q. And for what period did you send weekly
18 updates to Mr. Garlinghouse?

19 MR. DRYLEWSKI: Objection to form.

20 THE WITNESS: Until my departure from the
21 company.

22 BY MR. SYLVESTER:

23 Q. Did you start them when you took the
24 position as CCO?

25 A. No, it wasn't at that time. This was

1 instigated sometime after that.

2 Q. Approximately when was that?

3 A. I -- I can't say for sure. I couldn't
4 say.

5 Q. Okay. Do you see, Ms. O'Gorman, I think
6 nine rows down, we're back to XRP is not a security
7 research and Ripple talking points?

8 A. Sure.

9 Q. And then on the right-hand column, you
10 provide the update summary document not yet
11 complete.

12 Do you see that?

13 A. I do.

14 Q. And then in parens after that, it says:

15 "Pending response on timing
16 and terms of first-ever XRP
17 transaction from Chris L. and/or
18 David Schwartz."

19 Do you see that?

20 A. Yes.

21 Q. Is Chris L. Chris Larsen?

22 A. That is correct.

23 Q. Okay. Why did you need to know the timing
24 in terms of Mr. Larsen's and Mr. Schwartz's
25 first-ever transaction in order to complete this

1 project?

2 A. Honest to God --

3 MR. DRYLEWSKI: Hold on a second.

4 MS. ZORNBERG: I'm just going to interject
5 that to the extent you have a recollection, you
6 shouldn't -- you should answer only to the extent
7 you're not providing any communications with
8 counsel.

9 MR. DRYLEWSKI: Yeah.

10 THE WITNESS: I have no idea.

11 BY MR. SYLVESTER:

12 Q. The -- let's see. The next sentence says:

13 "Zagone to schedule Ripple
14 posturing/discussion with [REDACTED]
15 [REDACTED] ater this month."

16 Do you see that?

17 A. I do.

18 Q. What did you mean by "posturing" in that
19 sentence?

20 A. I meant that we were going to meet with
21 [REDACTED] at some point, and one of the items for
22 discussion was going to be the topic of XRP and the
23 Bitcoin article that they had written in
24 December 2016, one of many subjects.

25 Q. Did you reach out to [REDACTED] to

1 schedule that meeting?

2 A. No. Ryan did.

3 Q. Mr. Zagone?

4 A. Yes.

5 Q. When did Mr. Zagone reach out to [REDACTED]

6 [REDACTED] to schedule that meeting?

7 A. I would say sometime in Q1 of 2017, but I
8 couldn't tell you the date.

9 Q. This email was sent on January 17, 2017.

10 Do you recall if you reached out prior to
11 this email?

12 A. He may have done. You'd have to ask Ryan,
13 Mr. Zagone.

14 Q. Prior to Q1 of 2017, had anyone at Ripple
15 ever had a meeting with anyone at [REDACTED]

16 A. I can only speak for myself. I didn't,
17 but persons may have.

18 Q. Okay. To your knowledge, did Ripple's
19 donation to [REDACTED] have anything to do with its
20 ability to get a meeting with [REDACTED]

21 MR. DRYLEWSKI: Objection to form.

22 THE WITNESS: Not at all, no.

23 BY MR. SYLVESTER:

24 Q. Did the meeting with [REDACTED]
25 ultimately occur?

1 A. It did.

2 Q. Who attended?

3 A. Myself, Ryan, [REDACTED] from [REDACTED]

4 [REDACTED] and [REDACTED] from [REDACTED]

5 Q. Anyone else?

6 A. That's to the best of my recollection.

7 Q. Sure.

8 Prior to attending the meeting with [REDACTED]

9 [REDACTED] did you discuss the upcoming meeting with

10 Mr. Garlinghouse?

11 MS. ZORNBERG: I'm just going to jump in.

12 You can answer to the extent that your
13 answer does not reveal communications that you had
14 with legal or that you understood Mr. Garlinghouse
15 to have had with legal.

16 MR. DRYLEWSKI: Do you understand?

17 THE WITNESS: Mh-hmm, I do.

18 I cannot answer that question.

19 BY MR. SYLVESTER:

20 Q. On the basis of that instruction?

21 A. Yes, yeah.

22 Q. Let me ask a yes-or-no question.

23 Prior to attending that meeting with [REDACTED]

24 [REDACTED] did you discuss the upcoming meeting with

25 [REDACTED] at all with Mr. Garlinghouse? Just yes

1 or no.

2 A. Yes.

3 Q. Okay. How many discussions did you have
4 with him on that topic?

5 A. Very hard to say. I don't know.

6 Q. Okay. Prior to your meeting with [REDACTED]
7 [REDACTED] -- again, just yes or no -- did you talk
8 about the upcoming meeting with Mr. Larsen?

9 A. Yes.

10 Q. How many times did you talk about the
11 meeting with Mr. Larsen?

12 A. I can't say. I don't know.

13 Q. Did you prepare talking points for that
14 meeting?

15 MS. ZORNBERG: Again, that would be a yes
16 or no without disclosure of any communications
17 involving the legal department or your
18 communications with the lawyers.

19 THE WITNESS: Sure.

20 I don't recall.

21 BY MR. SYLVESTER:

22 Q. Okay. Do you recall if anyone prepared
23 talking points?

24 A. I don't. It was an informal discussion.

25 Q. At your [REDACTED] meeting -- strike

1 that.

2 When was the [REDACTED] meeting?

3 A. I believe it was in March of 2017. But
4 don't hold me to that.

5 Q. At the March 2017 meeting with [REDACTED]
6 [REDACTED] did you have a discussion with the [REDACTED]
7 [REDACTED] folks about securities classification of
8 digital assets?

9 MR. DRYLEWSKI: Objection to form.

10 THE WITNESS: Yes.

11 BY MR. SYLVESTER:

12 Q. What did you say?

13 A. Honestly, I can't remember.

14 What do you mean, what did I say? Maybe
15 ask me more specific.

16 Q. Do you have a general recollection of what
17 you had to say to [REDACTED] on the topic of the
18 classification of digital assets under the
19 securities laws?

20 A. I'm sure we discussed their article, which
21 was very Bitcoin-focused, but I honest to God don't
22 know what I said to them.

23 Q. Did you take a position in the meeting
24 with [REDACTED] about whether or not XRP should be
25 classified as a security?

1 MR. DRYLEWSKI: Object to form.

2 THE WITNESS: I didn't say that it should
3 be classified as a security, no.

4 BY MR. SYLVESTER:

5 Q. Did you say that it should not be
6 classified as a security?

7 A. I didn't believe it to be a security. I
8 may have stated that in the meeting. I don't know.

9 But, again, I'm not a lawyer. That was my
10 personal analysis.

11 Q. You said that was your personal analysis?

12 A. Yeah. That was my view.

13 Q. That XRP was not a security?

14 A. That's right.

15 Q. So just your personal analysis, nothing
16 you heard from a lawyer, what was your view -- how
17 did you come to that view that XRP is not a
18 security?

19 MS. ZORNBERG: So we can take it -- take
20 it slow. To the extent you can answer the question
21 without relying or invoking or communicating your
22 conversations with counsel, you may answer.

23 THE WITNESS: I don't believe I can do
24 that, so I can't answer.

25 / /

1 BY MR. SYLVESTER:

2 Q. Separate and apart from any communications
3 that you had with Ripple's counsel, did you
4 undertake -- you alone -- any analysis of whether or
5 not XRP was a security?

6 A. No.

7 Q. You testified earlier that you did not
8 believe XRP to be a security --

9 A. That's right.

10 Q. -- at this time.

11 A. That's right.

12 Q. And did -- I guess, was that view formed
13 totally from conversations with counsel?

14 A. It was intricate -- intricately involved
15 in conversations with the legal department.

16 Q. What, if anything, did you do, other than
17 talk to the legal department, to inform your view
18 that XRP was not a security?

19 A. I reviewed the Howey test.

20 Q. How did you undertake to review the Howey
21 test?

22 A. I went --

23 MR. DRYLEWSKI: Object to form.

24 THE WITNESS: I went to the SEC website, I
25 reviewed it. I reviewed the prior cases under the

1 Howey test, and I tried to draw a conclusion from
2 there, personally.

3 BY MR. SYLVESTER:

4 Q. What, if anything, did you read on the SEC
5 website pertaining to the Howey test?

6 A. That's a long time ago. I don't recall.

7 Q. Did you read the Howey opinion?

8 A. I don't recall.

9 Q. You mentioned that you also reviewed prior
10 cases under the Howey test?

11 A. Yes, I did.

12 Q. Was that around this time, January 2017?

13 A. It would have been, yes.

14 Q. Which cases did you recall?

15 MR. DRYLEWSKI: Objection to form.

16 BY MR. SYLVESTER:

17 Q. Which cases did you review?

18 A. I don't recall.

19 Q. Okay. Going back to your meeting with

20 [REDACTED] in March of 2017, did anyone from [REDACTED]
21 [REDACTED] express any views about XRP status under the
22 securities laws?

23 A. A view?

24 [REDACTED] was very familiar with the
25 Bitcoin blockchain and Bitcoin, but they didn't --

1 they weren't very familiar with XRP Ledger or XRP,
2 so there would have been no view associated with
3 whether it was or was not.

4 Q. Did you provide -- strike that.

5 Did you or Mr. Zagone provide any
6 information to [REDACTED] at that meeting to inform
7 their view about whether or not XRP should be
8 classified as a security?

9 MR. DRYLEWSKI: Object to form.

10 THE WITNESS: We had a chat about many
11 different things as part of that conversation. This
12 was one topic, but it was very general and informal
13 in nature.

14 BY MR. SYLVESTER:

15 Q. Okay. Appreciating this was just one
16 topic --

17 A. Yeah.

18 Q. -- do you recall providing to [REDACTED]
19 any information that might inform their view about
20 whether or not XRP should be classified as a
21 security?

22 MR. DRYLEWSKI: Object to form.

23 THE WITNESS: I don't recall.

24 BY MR. SYLVESTER:

25 Q. Do you recall at the meeting with [REDACTED]

1 [REDACTED] discussing the Howey test at all?

2 A. I don't recall. I'm sure we did, but I
3 don't recall.

4 Q. Why do you say, "I'm sure we did"?

5 A. Because they had just written the paper.
6 We were doing our review or research into it. I'm
7 sure it was raised. I don't recall the specifics.

8 Q. Did you convey to [REDACTED] your views
9 on the proper application of the Howey test to XRP?

10 MR. DRYLEWSKI: Object to form.

11 THE WITNESS: I don't believe I did.

12 They are lawyers. I'm not.

13 BY MR. SYLVESTER:

14 Q. The gentlemen from [REDACTED] were
15 lawyers?

16 A. Yes.

17 Q. Did Mr. Zagone express any of his views
18 about the proper application of the Howey test to
19 XRP to [REDACTED]?

20 MR. DRYLEWSKI: Objection to form.

21 THE WITNESS: During that meeting, you
22 mean?

23 BY MR. SYLVESTER:

24 Q. Let start with during that meeting, yes.

25 A. He may have done. I don't know.

1 Q. What did he say?

2 A. I don't recall. Don't know.

3 Q. Did you or Mr. Zagone at the [REDACTED]
4 meeting express Ripple's views on whether or not XRP
5 should be classified as a security?

6 MR. DRYLEWSKI: Objection to form.

7 THE WITNESS: I -- I don't recall.

8 BY MR. SYLVESTER:

9 Q. You mentioned that [REDACTED] had opined
10 that Bitcoin was not a security; is that right?

11 A. I believe so, yes.

12 Q. Do you recall whether or not there was a
13 discussion at the [REDACTED] meeting comparing
14 Bitcoin to XRP?

15 MR. DRYLEWSKI: Objection to form.

16 THE WITNESS: I don't recall.

17 BY MR. SYLVESTER:

18 Q. Do you remember discussing Ether at all at
19 that meeting?

20 A. No. Absolutely not. I don't recall.
21 Maybe we did. Don't recall.

22 MR. SYLVESTER: Okay. Let's move to
23 Exhibit 18, please.

24 (Whereupon, Deposition Exhibit AO-18
25 was marked for identification.)

1 BY MR. SYLVESTER:

2 Q. Ms. O'Gorman, this appears to be an email
3 from you to Mr. Garlinghouse sent on March 11th,
4 2017; is that right?

5 MR. DRYLEWSKI: Feel free to review the
6 entire document, familiarize yourself before you
7 answer any questions about it.

8 THE WITNESS: Yes, March 11th, 2017. I
9 reviewed the document, yeah.

10 BY MR. SYLVESTER:

11 Q. Okay. Let me know when you're ready to
12 answer questions.

13 A. Okay.

14 ZOOM PARTICIPANT: What exhibit is this?

15 MR. SYLVESTER: Eighteen.

16 ZOOM PARTICIPANT: Eighteen?

17 MR. SYLVESTER: That's right.

18 ZOOM PARTICIPANT: Thank you.

19 MR. SYLVESTER: Sure.

20 THE WITNESS: I'm ready.

21 BY MR. SYLVESTER:

22 Q. Okay. Great.

23 You write under the heading -- strike
24 that.

25 The third bullet under the heading "Reg

1 Relations Highlights" pertains to you and
2 Mr. Zagone's meeting with [REDACTED] that we've
3 been discussing; is that right?

4 A. That's right.

5 Q. Okay. Going back to that meeting, did
6 anyone take notes at that meeting?

7 A. May have. They may have.

8 Q. Do you recall taking notes of the meeting?

9 A. I don't recall taking notes, no.

10 Q. Do you recall if Mr. Zagone took notes?

11 A. He may have done, yes.

12 Q. Did Mr. Zagone have a practice of storing
13 his notes in any particular place at Ripple?

14 A. He did, yes.

15 MR. DRYLEWSKI: Objection to form.

16 Sorry.

17 BY MR. SYLVESTER:

18 Q. Where?

19 A. An application, and I can't for the life
20 of me remember the name of it, contained notes on
21 meetings with regulators and others. And that
22 subsequently went into some part of Ripple's
23 Confluence, I believe. But I can't remember the
24 name of the application, but yes.

25 Q. What's Confluence?

1 A. It's an internal sharing of information at
2 Ripple.

3 Q. So if Mr. [REDACTED] put his notes into his
4 usual storage location --

5 A. Yeah.

6 Q. -- would others at Ripple be able to
7 access those notes?

8 A. No, they wouldn't.

9 Q. Were you?

10 A. Yes.

11 Q. Who else besides you could access his
12 notes in that location?

13 A. [REDACTED] He may have given access to others,
14 maybe legal, I'm not sure.

15 Q. Who is [REDACTED]?

16 A. She reported up to Ryan through me.

17 Q. Did -- after the [REDACTED] meeting,
18 outside of the email that we're looking at right
19 now, did you write any other summary of what took
20 place at the meeting?

21 A. I did not.

22 Q. Okay.

23 Outside of the email that we're looking at
24 right now, are you aware of any other summary of the
25 meeting that exists at Ripple?

1 MR. DRYLEWSKI: Objection to form.

2 THE WITNESS: I'm not aware, no. To the
3 best of my knowledge, at least.

4 BY MR. SYLVESTER:

5 Q. Do you recall discussing the [REDACTED]
6 meeting with anyone on Slack?

7 A. I don't recall.

8 Q. Is it possible you did?

9 MS. ZORNBERG: Objection.

10 THE WITNESS: It might be possible, yeah.
11 I don't know.

12 BY MR. SYLVESTER:

13 Q. Turning back to the document at hand,
14 which is Exhibit 18, the third bullet says:

15 "AOG and Ryan Z met with [REDACTED]
16 [REDACTED] on 3/6 re Ripple's position
17 that XRP is not a security."

18 Does that refresh your recollection that
19 Ripple offered a position at that meeting that XRP
20 was not a security?

21 MR. DRYLEWSKI: Objection to form.

22 THE WITNESS: It was my opinion that it
23 was not a security, so I would imagine we discussed
24 that, amongst other things.

25 / /

1 BY MR. SYLVESTER:

2 Q. Sure.

3 I think what I'm focusing in here is the
4 re line, so the meeting is re Ripple's position that
5 XRP is not a security.

6 Does that refresh you at all as to the
7 fact that it actually was discussed at the meeting?

8 MR. DRYLEWSKI: Objection to form.

9 THE WITNESS: Well, I know it was
10 discussed at the meeting.

11 BY MR. SYLVESTER:

12 Q. I see.

13 And in the meeting, did you or Mr. Zagone
14 present Ripple's position that XRP is not a
15 security?

16 MR. DRYLEWSKI: Object to form.

17 THE WITNESS: "Present" is a strong word
18 there.

19 We spoke informally about it. We didn't
20 present.

21 BY MR. SYLVESTER:

22 Q. You spoke informally on the topic of
23 Ripple's position that XRP is not a security?

24 A. That's right.

25 Q. Okay.

1 Okay. So you write, immediately
2 thereafter:

3 "Meeting went well."

4 Do you see that?

5 A. I do.

6 Q. Okay. And then after that, you write:

7 "However, XRP certainly has
8 some 'securities type'

9 characteristics, and we do need to
10 hone our playbook/messaging."

11 Do you see that?

12 A. I do.

13 Q. Who, if anyone, at the meeting with [REDACTED]

14 [REDACTED] said that XRP certainly has some
15 securities-type characteristics?

16 MR. DRYLEWSKI: Objection to form.

17 THE WITNESS: I don't know specifically
18 whether it was [REDACTED] or whether it was [REDACTED] from

19 [REDACTED]
20 BY MR. SYLVESTER:

21 Q. Okay. So one of the gentlemen from [REDACTED]

22 [REDACTED] told you and Mr. Zagone at the meeting that
23 XRP has some securities-type characteristics?

24 A. It appeared that it may have certain
25 security-type characteristics.

1 Q. In your email to Mr. Garlinghouse here,
2 you write:

3 "XRP certainly has some
4 securities-type characteristics."

5 Was anyone at the [REDACTED] meeting of
6 the view that XRP certainly had securities type
7 characteristics?

8 MR. DRYLEWSKI: Objection to form.

9 THE WITNESS: I can't remember the exact
10 language. I see the word written here, but I --
11 "certainty" was not the word anyone would use around
12 that time.

13 BY MR. SYLVESTER:

14 Q. Well, I appreciate that. It's just that
15 you used it, so I'm trying to figure out --

16 A. I know.

17 Q. -- who had a certain belief, if anyone?

18 MR. DRYLEWSKI: Objection to form. Asked
19 and answered.

20 THE WITNESS: Am I supposed to answer?

21 MR. DRYLEWSKI: You have to answer it
22 again.

23 THE WITNESS: Oh, sorry.

24 BY MR. SYLVESTER:

25 Q. Sure.

1 A. I used the word "certainly." That's what
2 I wrote here. But as I say, there was no certainty
3 around it. I don't know why I used that word.

4 Q. Okay. What were the securities-type
5 characteristics of XRP that were discussed at the
6 [REDACTED] meeting?

7 MR. DRYLEWSKI: Objection to form.

8 THE WITNESS: I don't recall. I don't
9 recall.

10 BY MR. SYLVESTER:

11 Q. Did you come away from the meeting with
12 [REDACTED] agreeing that XRP had securities-type
13 characteristics?

14 MR. DRYLEWSKI: Objection to form.

15 THE WITNESS: I didn't come away from the
16 meeting with [REDACTED] on that, but I -- no. I
17 didn't come away from the meeting with that.

18 BY MR. SYLVESTER:

19 Q. Did there come a point in time when you --
20 separate from the meeting with [REDACTED] where
21 you had the view that XRP had securities-type
22 characteristics?

23 MS. ZORNBERG: One moment.

24 You can answer to the extent that you can
25 separate out your view from conversations you had

1 with counsel or information provided by counsel that
2 may have had to do with your discussions with
3 counsel.

4 THE WITNESS: I don't believe I can answer
5 the question.

6 BY MR. SYLVESTER:

7 Q. Okay. Limiting that question just to your
8 reading of the [REDACTED] report -- you read the
9 [REDACTED] report?

10 A. I did.

11 Q. Did you come away from your reading of the
12 [REDACTED] report, alone, with an understanding
13 that XRP had some securities-type characteristics?

14 MS. ZORNBERG: I'm going to interject here
15 because we've already made a record and there's
16 already been testimony in this case that the
17 evaluation of the [REDACTED] report entailed
18 discussions with counsel both by Ms. O'Gorman and by
19 Ryan Zagone.

20 So I'm not sure that the premise of your
21 question can be answered. Maybe you can rephrase
22 it. But as it was asked, I would direct the witness
23 not to answer.

24 BY MR. SYLVESTER:

25 Q. Did you obtain any understanding of XRP

1 having securities-type characteristics solely from
2 your reading of the [REDACTED] report?

3 MR. DRYLEWSKI: Object to form.

4 THE WITNESS: It's very hard to pull that
5 apart from my discussions with legal.

6 BY MR. SYLVESTER:

7 Q. You write, after the concluding part of
8 that sentence:

9 "And we do need to hone our
10 playbook/messaging."

11 Do you see that?

12 A. I do.

13 Q. What does "playbook" mean in that
14 sentence?

15 A. The "playbook" means presentations that we
16 made externally and maybe -- mainly external
17 presentations where we talked about XRP and Ripple.
18 Educational in nature.

19 Q. And did you come to the conclusion that
20 you needed to make changes to Ripple's playbook
21 based on what [REDACTED]'s lawyers said at the [REDACTED]
22 [REDACTED] meeting?

23 MR. DRYLEWSKI: Objection to form.

24 THE WITNESS: No. That's not true.

25 / /

1 BY MR. SYLVESTER:

2 Q. What was the basis for your conclusion
3 that we do need to hone our playbook/messaging?

4 MS. ZORNBERG: Object to form.

5 MR. DRYLEWSKI: And I'm going to instruct
6 the witness, to the extent that that divulges any
7 communications that you had with Ripple's lawyers,
8 inside or outside counsel, exclude that from your
9 answer.

10 THE WITNESS: I would say generally, some
11 of the language that we had used in the past was not
12 precise. It lacked clarity. And it was more for
13 clarification purposes.

14 BY MR. SYLVESTER:

15 Q. In your view, was that imprecision
16 something that you wanted to eliminate to decrease
17 XRP's securities-type characteristics?

18 MR. DRYLEWSKI: Objection to form.

19 And same instruction.

20 THE WITNESS: Yeah.

21 It was to be more clear in our language --

22 BY MR. SYLVESTER:

23 Q. Okay.

24 A. -- but not to --

25 Q. Sorry, go ahead.

1 A. -- but not to limit or reduce anything.

2 Q. Did you come away from the [REDACTED]
3 meeting with a view that there was a risk that XRP
4 might be classified as a security on the basis of
5 what the [REDACTED] lawyers told you?

6 MR. DRYLEWSKI: Objection to form.

7 THE WITNESS: Did I come away from the
8 meeting with that?

9 No, I didn't.

10 BY MR. SYLVESTER:

11 Q. Did you think that the [REDACTED] lawyers
12 were wrong, that XRP did not have securities-type
13 characteristics?

14 A. I --

15 MR. DRYLEWSKI: Objection to form.

16 Go ahead.

17 THE WITNESS: Okay. I had raised that
18 there was always the potential. There was a risk.
19 And absent guidance from the SEC, there was always
20 going to be that risk.

21 BY MR. SYLVESTER:

22 Q. Specific to the securities-type
23 characteristics that the [REDACTED] lawyers
24 identified, did you disagree with them that XRP had
25 those securities-type characteristics?

1 MS. ZORNBERG: Objection, foundation.

2 THE WITNESS: Yeah, I don't recall. I
3 honestly don't recall.

4 BY MR. SYLVESTER:

5 Q. As a general matter, if I'm understanding
6 your email correctly, you and Mr. Zagone went to the
7 meeting, you spoke about Ripple's position that XRP
8 is not a security; is that right?

9 A. That's right --

10 Q. Okay.

11 A. -- amongst others.

12 Q. Sure.

13 And [REDACTED] expressed the view that
14 XRP certainly has some securities-type
15 characteristics; is that right?

16 MR. DRYLEWSKI: Objection to form.

17 THE WITNESS: They may have said certain
18 security -- securities-type characteristics. They
19 didn't say, "certainly." That's my word in this
20 document here.

21 BY MR. SYLVESTER:

22 Q. And -- okay. So my question is just, when
23 [REDACTED] expressed their view that XRP has
24 securities-type characteristics, did you agree?

25 MR. DRYLEWSKI: Objection to form.

1 THE WITNESS: I don't recall. I honestly
2 don't recall.

3 BY MR. SYLVESTER:

4 Q. Do you recall whether you or Mr. Zagone
5 expressed any disagreement at the meeting?

6 MR. DRYLEWSKI: Objection to form. Asked
7 and answered.

8 THE WITNESS: I don't recall.

9 BY MR. SYLVESTER:

10 Q. Okay.

11 MR. SOLOMON: I'm going to object, too.

12 You keep infusing the assumption that the
13 people at the meeting said it had securities-type
14 characteristics, but you never asked her whether she
15 recalled what was said at the meeting by the people
16 there?

17 MR. SYLVESTER: I mean, I don't want to
18 get into colloquy. I believe that's what she
19 testified.

20 MR. SOLOMON: I think the record is
21 confused, Mark. You can clean it up or not, but
22 it's utterly confusing in the form. So it's up to
23 you.

24 BY MR. SYLVESTER:

25 Q. Did -- between the [REDACTED] meeting and

1 writing this email --

2 A. Okay, yeah.

3 Q. So it looks like a period of five days, if

4 I have my math right.

5 A. It looks like it.

6 Q. Did you consult with Ripple's counsel?

7 A. I may have.

8 Q. Okay. Do you have any recollection of

9 doing so?

10 A. No.

11 Q. Okay. Here, where you write:

12 "We do need to hone our

13 playbook and messaging."

14 Was that your idea?

15 A. Yes.

16 Q. Okay. And the reason you wanted to

17 hone -- strike that.

18 The reason you recommended honing Ripple's

19 playbook and messaging was to correct, I believe you

20 said, a lack of precision; is that right?

21 A. That's right.

22 MR. DRYLEWSKI: Objection to form.

23 BY MR. SYLVESTER:

24 Q. Okay. What changes do you recall

25 suggesting to Ripple's playbook or messaging after

1 the [REDACTED] meeting?

2 MS. ZORNBERG: You can answer. You can
3 answer to the extent that your answer does not
4 reveal communications with counsel.

5 THE WITNESS: Okay. I can't answer that
6 question.

7 BY MR. SYLVESTER:

8 Q. Based on Ms. Zornberg's instruction?

9 A. That's right.

10 Q. Did Ripple ultimately accept your
11 suggestion that it should hone its playbook and
12 messaging?

13 MR. DRYLEWSKI: Objection to form.

14 MS. ZORNBERG: And repeat the instruction
15 that you can answer the question if you understand
16 it, but without revealing communications with
17 counsel.

18 THE WITNESS: It wasn't a matter of
19 accepting anything.

20 Did they -- did Brad, for example?

21 I don't know. Do you want to be more
22 specific in your question.

23 BY MR. SYLVESTER:

24 Q. Sure.

25 Did Mr. Garlinghouse agree with your

1 suggestion that Ripple needed to hone its playbook
2 or messaging?

3 MR. DRYLEWSKI: Objection to form.

4 MS. ZORNBERG: Standing instruction that
5 for all of these questions along this line, we would
6 instruct you not to answer to the extent that
7 your -- that you would be revealing communications
8 that you had or Brad Garlinghouse or other Ripple
9 employees had with counsel specific to this subject.

10 THE WITNESS: Yeah. I -- I'm unable to
11 answer that question.

12 BY MR. SYLVESTER:

13 Q. Okay. Based on Ms. Zornberg's
14 instruction?

15 A. That's right.

16 Q. The sub bullet under the section we've
17 been talking about refers to next steps.

18 Do you see that?

19 A. Yes.

20 Q. It says:

21 "Next steps, scheduling an
22 educational meeting with XRP and
23 MarComm teams this coming week."

24 Do you see that?

25 A. Yes.

1 Q. What's the XRP team?

2 A. XRP team was a new team at the time, newly
3 introduced team at Ripple, responsible for the XRP
4 markets. Fell under -- I don't know who it was
5 under at the time. Patrick Griffin.

6 Q. At the time that you wrote this email,
7 what, if anything, did you think that the XRP team
8 should do to hone its playbook or messaging?

9 MR. DRYLEWSKI: Objection to form.

10 MS. ZORNBERG: And I would also interject.
11 I'm also just going to proffer to counsel for the
12 SEC so that you -- you can ask questions
13 accordingly, that there is a factual basis
14 establishing, in this case, that this witness,
15 Ms. O'Gorman's -- Ms. O'Gorman had privileged
16 communications with Ripple counsel on this topic,
17 that the meeting that suggested as a next step
18 involved Ripple's general counsel. And so we're
19 going to have to take it question by question. But
20 this is an area to which privilege extends.

21 MR. SYLVESTER: Okay. I appreciate your
22 proffer, and I think it is the right thing to do,
23 take it question by question.

24 This communication with Ms. O'Gorman and
25 Mr. Garlinghouse is obviously not privileged.

1 Q. So I'm asking, as of this communication,
2 what your view was as to what steps, if any, the XRP
3 team should take to hone its playbook or messaging?

4 MS. ZORNBERG: And you can answer that
5 question to the extent that -- first of all, he's
6 only asking you -- you're asking if she had a view
7 and what the view was?

8 You can answer it to the extent you're not
9 revealing communications with counsel.

10 MR. DRYLEWSKI: Right.

11 THE WITNESS: It was to make sure that the
12 language we used in any of our communications, be it
13 XRP team, be it MarComm, be precise in nature.

14 BY MR. SYLVESTER:

15 Q. What was the imprecision, if any, that
16 needed to be corrected?

17 MR. DRYLEWSKI: Objection to form.

18 And, again, the same instruction you've
19 been getting from Ms. Zornberg, exclude from your
20 answer the substance of any communications you may
21 have had with Ripple's lawyers on this topic.

22 THE WITNESS: Yeah. Yeah. I won't be
23 able to answer that question.

24 BY MR. SYLVESTER:

25 Q. Based on --

1 A. That's right.

2 Q. Just for the record, based on

3 Mr. Drylewski's instruction?

4 A. Yes.

5 Q. MarComm is the team headed up by Ms. Long?

6 A. That's right.

7 Q. And that's Ripple's marketing and

8 communications teams?

9 A. That's right.

10 Q. Okay.

11 You write:

12 "Some language used in the XRP

13 presentation at this week's

14 biweekly meeting was not ideal."

15 Do you see that?

16 A. I do.

17 Q. What was the language that was not ideal?

18 A. Honestly, I have no recollection.

19 Q. One of the components of the educational

20 meeting that you propose here is how to discuss

21 XRP/RCL generally and in presentations.

22 Do you see that?

23 A. I do.

24 Q. What's RCL?

25 A. Ripple Consensus Ledger, subsequently

1 named XRP Ledger.

2 Q. Okay.

3 As of the time of writing this email, what
4 advice did you intend to provide with respect to
5 discussing XRP or the Ripple Consensus Ledger?

6 MR. DRYLEWSKI: Objection to form.

7 MS. ZORNBERG: And answer only to the
8 extent you can -- you can answer about advice you
9 provided to the extent it did not involve any
10 communications with counsel.

11 THE WITNESS: Based on this advice, I
12 cannot respond to that question.

13 BY MR. SYLVESTER:

14 Q. I just want to make sure that we have the
15 timing right on that. Because I think
16 Ms. Zornberg's instruction went to the
17 communications that you ultimately had at the
18 meeting. And what I'm focused on is what you
19 planned to say as embodied in this email to
20 Mr. Garlinghouse.

21 So taking you to the date of this email,
22 writing this email to Mr. Garlinghouse --

23 A. Sure.

24 Q. -- what was it that you planned to advise
25 the XRP or -- sorry -- planned to advise the XRP or

1 MarComm teams regarding their discussion of XRP?

2 MS. ZORNBERG: I don't -- you're making
3 assumptions about the sequencing of when counsel got
4 involved or how.

5 And if you're going to continue to press
6 that point, we need to take a break so that I can
7 consult on the extent to which we're asserting
8 privilege.

9 MR. DRYLEWSKI: Let's take a break.

10 MR. SYLVESTER: Let's take a break.

11 THE VIDEOGRAPHER: Off the record at
12 2:50 p.m.

13 (Whereupon, a recess was taken.)

14 THE VIDEOGRAPHER: This is the beginning
15 of File Number 8.

16 We're back on the record at 3:04 p.m.

17 MS. ZORNBERG: Okay. Mr. Sylvester, thank
18 you. We took a break so that we could better assess
19 privilege in light of the last question or two that
20 you asked. And I had already flagged that this
21 subject that's reflected of meetings and messaging
22 in A018, we know is a -- is a subject where there
23 was counsel involvement.

24 So I think the easiest way to proceed is
25 for the witness, Ms. O'Gorman, to just tell you on

1 the record what her recollection is of when she had
2 discussions with counsel about the subject of this
3 sub bullet in relation to when it was sent to
4 Brad Garlinghouse. And that will help inform the
5 privilege assertion.

6 MR. SYLVESTER: I see.

7 And that's -- but just to be clear, there
8 are certain sections of this document that are
9 redacted that you're obviously claiming privilege
10 over, but you're not claiming privilege over what
11 Ms. O'Gorman said that's in the unredacted portions.

12 MS. ZORNBERG: What caused us to take a
13 break to talk about privilege was you asking her a
14 substantive question of what advice she had in her
15 mind to discuss -- to do at meetings or to discuss
16 with Brad Garlinghouse. That was along the lines of
17 the question. So it got into the substance.

18 The short of the answer, but I'd rather
19 you hear it from Ms. O'Gorman, that on any questions
20 about the substance of the advice, we would direct
21 her not to answer on grounds of privilege. And that
22 is because of her recollection that she was already
23 in communication with counsel about this subject.
24 And so any advice was informed by her communications
25 with counsel.

1 But you're free to get -- without going
2 into substance, you're free to hear from her
3 directly that she was already in communication with
4 counsel.

5 MR. TENREIRO: About this subject, this
6 subject?

7 MS. ZORNBERG: The sub bullet here that's
8 addressed.

9 MR. SYLVESTER: How to discuss XRP/RCL
10 generally in presentations?

11 MS. ZORNBERG: Correct.

12 MR. SYLVESTER: Okay.

13 Kat, would you mind reading back what I
14 asked.

15 (Record read by the reporter
16 as follows:

17 QUESTION: I just want to
18 make sure that we have the timing
19 right on that. Because I think
20 Ms. Zornberg's instruction went to
21 the communications that you
22 ultimately had at the meeting.
23 And what I'm focused on is what
24 you planned to say as embodied in
25 this email to Mr. Garlinghouse.

1 So taking you to the date of
2 this email, writing this email to
3 Mr. Garlinghouse, what was it that
4 you planned to advise the XRP or --
5 sorry -- planned to advise the XRP
6 or MarComm teams regarding their
7 discussion of XRP?)

8 MS. ZORNBERG: Direct the witness not to
9 answer on privilege grounds.

10 And you are free, Mr. Sylvester, to get
11 from the witness and ask her followup questions
12 directly about the timing of her communications with
13 counsel.

14 BY MR. SYLVESTER:

15 Q. When did you first communicate with
16 counsel on the topic of how Ripple should modify its
17 messaging regarding XRP?

18 MR. DRYLEWSKI: Objection to form.

19 THE WITNESS: It would have been before,
20 during and after the date of this email.

21 BY MR. SYLVESTER:

22 Q. When you say, "before," was it around the
23 time that you read the [REDACTED] report?

24 A. Would have been around that time.

25 Q. Okay. But we're not talking about a

1 further-back time period, like at the beginning of
2 your tenure as CCO, something along those lines?

3 A. No, I don't think so.

4 Q. As of the time of writing this email,
5 March 11th, 2017, did you have an understanding that
6 what Ripple said publicly was relevant to whether
7 XRP was classified as a security?

8 MR. DRYLEWSKI: I'm going to object to
9 form.

10 I'm going to ask you to exclude from your
11 answer the substance of any discussions that you had
12 with legal counsel at Ripple, inside or outside
13 counsel.

14 THE WITNESS: Can you repeat the question,
15 please.

16 BY MR. SYLVESTER:

17 Q. Sure.

18 At the time of writing this email,
19 March 11th, 2017, did you have an understanding that
20 what Ripple said publicly was relevant to whether
21 XRP was classified as a security?

22 MR. DRYLEWSKI: I'll add, it calls for a
23 legal conclusion.

24 THE WITNESS: I wouldn't be able to
25 extricate that from the discussions with legal on

1 the matter.

2 BY MR. SYLVESTER:

3 Q. You recommend in this email that Ripple
4 hone its playbook and messaging, correct?

5 A. Recommend?

6 I state here that we need to.

7 Q. What did Ripple hope to accomplish by
8 honing its playbook or messaging?

9 MR. DRYLEWSKI: Objection to form.

10 THE WITNESS: To be more precise --

11 MR. DRYLEWSKI: Hold on. Let me also
12 instruct that, to the extent your answer would
13 divulge any communications that you may have had
14 with Ripple's inside or outside counsel, exclude
15 that from your answer.

16 THE WITNESS: I can't answer based on the
17 information provided by Alex.

18 BY MR. SYLVESTER:

19 Q. Did the [REDACTED] report that you read
20 in December 2016 address the topic that what a
21 company said publicly was relevant to the analysis
22 of whether a digital asset would be classified as a
23 security?

24 A. I don't recall.

25 Q. You mention in the very last line of the

1 sub bullet we've been discussing that there was
2 language used at the XRP presentation at this week's
3 biweekly meeting that was not ideal.

4 Do you see that?

5 A. I do.

6 Q. I believe you testified you couldn't
7 recall what that language was; is that right?

8 A. I couldn't. There was -- every two weeks,
9 there was a presentation.

10 Q. As a general matter, at the time, what
11 sort of language, in your view, would have fallen
12 into that not-ideal bucket?

13 MR. DRYLEWSKI: I'm going to instruct you
14 again not to answer to the extent that your answer
15 would divulge any conversations between you and
16 Ripple's counsel.

17 THE WITNESS: I'm unable to answer that
18 question.

19 BY MR. SYLVESTER:

20 Q. At the time of writing this email,
21 Ms. O'Gorman, why did Ripple, in your words, need to
22 hone its playbook or messaging?

23 MR. DRYLEWSKI: Same objection.

24 And same instruction.

25 THE REPORTER: I'm sorry, did you say

1 something?

2 THE WITNESS: I said, asked and answered.

3 MR. DRYLEWSKI: Objection to form.

4 And the same instruction I just gave you,

5 do not answer to the extent it would divulge any

6 communications -- the substance of any

7 communications between you and Ripple's lawyers.

8 BY MR. SYLVESTER:

9 Q. Go ahead, sorry.

10 A. I'm unable to answer that question.

11 Q. Based on your counsel's instruction?

12 A. That's right.

13 Q. How did Ripple ultimately hone its
14 playbook and messaging?

15 MR. DRYLEWSKI: Same objection.

16 Same instruction.

17 THE WITNESS: Same answer.

18 BY MR. SYLVESTER:

19 Q. And just for the record, you're unable to
20 answer based on your counsel's instruction?

21 A. That's right.

22 MR. SYLVESTER: Let's go to Exhibit 17,
23 please.

24 (Whereupon, Deposition Exhibit AO-17
25 was marked for identification.)

1 BY MR. SYLVESTER:

2 Q. Ms. O'Gorman, while you're looking at the
3 document, I'll just state for the record, this is an
4 email thread where the top email is from you to
5 Mr. Zagone dated February 13th, 2017.

6 Do you see that?

7 A. I do.

8 Q. Let me know when you're ready to answer
9 questions, please.

10 A. Sure.

11 ZOOM PARTICIPANT: When you have the
12 exhibit number, could you --

13 MR. SYLVESTER: Seventeen.

14 ZOOM PARTICIPANT: One-five?

15 MR. SYLVESTER: One-seven.

16 ZOOM PARTICIPANT: One-seven. Thank you.

17 MS. ZORNBERG: Is the computer muted or
18 no?

19 THE WITNESS: I'm ready.

20 BY MR. SYLVESTER:

21 Q. Great.

22 Do you see the second sentence in the
23 first paragraph says:

24 "Note the reference to the
25 blogger's opinion on XRP management

1 by a central authority pertinent to
2 our discussion with [REDACTED]
3 later this month."

4 Do you see that?

5 A. Mh-hmm, I do.

6 Q. This was written in February of 20- --
7 sorry -- strike that.

8 This was written on February 13th, 2017,
9 to Mr. Zagone.

10 Do you believe this discussion with [REDACTED]
11 [REDACTED] later this month was referring to the [REDACTED]
12 [REDACTED] meeting we were just discussing?

13 A. I do.

14 Q. Okay. Did you discuss at the [REDACTED]
15 meeting XRP's management by a central authority?

16 A. I wouldn't have said --

17 ZOOM PARTICIPANT: I can't hear anything.
18 Is anybody speaking?

19 MR. SYLVESTER: Can you hear now?

20 THE WITNESS: Sorry.

21 MS. ZORNBERG: Can you email and let them
22 know there are Wi-Fi issues.

23 BY MR. SYLVESTER:

24 Q. My question was, did you discuss at the
25 [REDACTED] meeting XRP's management by a central

1 authority?

2 A. I -- I wouldn't have said, "management by
3 a central authority." That maybe was the blogger's
4 words.

5 We talked about the Ripple Consensus
6 Ledger and XRP.

7 Q. What did you say at the [REDACTED]
8 meeting about the Ripple Consensus Ledger?

9 A. Simply that it was a blockchain-type
10 ledger technology similar but different from the
11 Bitcoin blockchain in that --

12 Q. What did you say about XRP?

13 A. It was a digital asset, currency native to
14 the --

15 ZOOM PARTICIPANT: None of us can hear a
16 thing.

17 BY MR. SYLVESTER:

18 Q. Go ahead.

19 A. That XRP, it was a digital asset native to
20 the XRP --

21 ZOOM PARTICIPANT: Sorry, we couldn't hear
22 you.

23 BY MR. SYLVESTER:

24 Q. All right. What did you say about XRP?

25 Would you mind starting again?

1 A. That it was a digital asset made of two
2 XRP Ledger.

3 Q. What, if anything, did you discuss with
4 [REDACTED] about the fact that XRP is a 100 percent
5 pre-mined cryptocurrency?

6 MR. DRYLEWSKI: Objection to form.

7 THE WITNESS: I don't recall us discussing
8 that.

9 BY MR. SYLVESTER:

10 Q. Did you -- strike that.

11 Did you discuss with [REDACTED] anything
12 with respect to Ripple, the company's role, and with
13 respect to XRP?

14 A. I don't recall.

15 Q. Okay.

16 MR. SYLVESTER: Let's move to Exhibit 20,
17 please.

18 (Whereupon, Deposition Exhibit AO-20
19 was marked for identification.)

20 BY MR. SYLVESTER:

21 Q. Exhibit 20 is an email from you to
22 Mr. Garlinghouse dated April 4th, 2017.

23 Do you see that?

24 A. I do.

25 Q. Okay. And my questions are just on the

1 last bullet on the first page that carries over to
2 the bullets on the second page.

3 Do you see those?

4 MR. DRYLEWSKI: Feel free to read the
5 entire document to the extent you need to before you
6 answer any questions.

7 THE WITNESS: I see it, yes.

8 BY MR. SYLVESTER:

9 Q. Okay. You write:

10 "Working with Patrick to
11 understand [REDACTED]
12 [REDACTED] onboarding."

13 Do you see that?

14 A. I do.

15 Q. What is [REDACTED]

16 A. It was an investment fund.

17 Q. Was [REDACTED] at the time of this
18 email contemplating purchasing XRP?

19 MR. DRYLEWSKI: Objection to form.

20 THE WITNESS: Yes.

21 BY MR. SYLVESTER:

22 Q. The next bullet on the top of page 2 says:

23 "Facts received inconsistent
24 with their private placement
25 document. Private placement doc

1 contains inaccurate Ripple-related
2 language and seems to point toward
3 XRP being a security, which we
4 obviously do not want."

5 Is the "we" in "which we obviously do not
6 want" Ripple?

7 A. It would be, yes.

8 Q. Okay.

9 Why did Ripple not want language in this
10 document that seemed to point towards XRP being a
11 security?

12 A. The language in the document --

13 MR. DRYLEWSKI: Objection to form.

14 And I'll instruct you not to answer to the
15 extent it would divulge any communications that you
16 had with Ripple's lawyers at the time.

17 THE WITNESS: The language in the document
18 was inaccurate.

19 BY MR. SYLVESTER:

20 Q. Why was it inaccurate?

21 MR. DRYLEWSKI: Same objection.

22 Same instruction.

23 THE WITNESS: I can't recall exactly.

24 BY MR. SYLVESTER:

25 Q. Did [REDACTED] ultimately purchase XRP?

1 A. Yes.

2 Q. Do you know if the language that you're
3 referencing in this exhibit was taken out of the
4 transaction documents?

5 A. I can't recall.

6 Q. Did anyone at Ripple ever talk to anyone
7 at [REDACTED] about why this securities language had
8 been included in the transaction documents in the
9 first place?

10 MR. DRYLEWSKI: Objection to form.

11 THE WITNESS: I can't speak for anyone at
12 Ripple. I can certainly speak for myself. No.

13 BY MR. SYLVESTER:

14 Q. Did anyone at Ripple ask anyone at
15 [REDACTED] whether [REDACTED] viewed XRP as a
16 security?

17 MR. DRYLEWSKI: Objection to form.

18 MS. ZORNBERG: Objection and asked and
19 answered.

20 BY MR. SYLVESTER:

21 Q. Did you have any discussion with anyone at
22 Ripple regarding [REDACTED] views as to whether or
23 not XRP was a security?

24 MS. ZORNBERG: So you can answer to the
25 extent that it doesn't divulge communications you

1 had with counsel.

2 THE WITNESS: Could you repeat the
3 question, please?

4 BY MR. SYLVESTER:

5 Q. Sure.

6 Did you have any discussions with anyone
7 at Ripple regarding [REDACTED] view as to whether
8 or not XRP was a security?

9 MS. ZORNBERG: Objection.

10 And same instruction.

11 THE WITNESS: I would have talked to
12 Patrick Griffin, maybe not specifically about that,
13 but, obviously, I clearly spoke to him about it.

14 BY MR. SYLVESTER:

15 Q. Spoke to Mr. Griffin?

16 A. Yeah, about the private placement
17 document. I don't remember the specifics.

18 MR. SYLVESTER: Let's move to Exhibit 23,
19 please.

20 (Whereupon, Deposition Exhibit AO-23
21 was marked for identification.)

22 MR. SYLVESTER: If you can hear me, that's
23 two-three.

24 Q. Ms. O'Gorman, this is a thread of emails,
25 the top email of which is an email from you to

1 Mr. Griffin on May 2nd, 2017.

2 Do you see that?

3 A. I do.

4 Q. You'll let me know when you're ready to
5 answer questions?

6 A. I sure will.

7 Q. Great.

8 A. I'm ready.

9 Q. Great.

10 You see the bottom email is Mr. Griffin
11 stating that he wants to put on your radar the
12 recent news around ICOs.

13 Do you see that?

14 A. I do.

15 Q. And then, the very bottom of his email, he
16 says:

17 "Chris L mentioned this and
18 wanted me to be sure it was
19 something we thought through."

20 Do you see that?

21 A. I do.

22 Q. Is that Mr. Larsen?

23 A. It is.

24 Q. Did you have any conversation with
25 Mr. Griffin around the time of this email about

1 Mr. Larsen's concerns that this was something that
2 Ripple was thinking through?

3 MR. DRYLEWSKI: Objection to form.
4 Mischaracterizes the document.

5 THE WITNESS: I think it says he mentioned
6 this. I don't know of any concerns he had.

7 BY MR. SYLVESTER:

8 Q. It seems from Mr. Griffin's email that
9 Mr. Larsen and Mr. Griffin had a conversation; is
10 that right?

11 A. It seems to be the case.

12 Q. Other than this email from Mr. Griffin to
13 you, did Mr. Griffin convey any other information
14 about what Mr. Larsen had said to him in that
15 conversation?

16 MS. ZORNBERG: Object to form.

17 THE WITNESS: I don't recall. I doubt it.

18 BY MR. SYLVESTER:

19 Q. Okay. And you reply:

20 "Thanks Patrick, I have been
21 watching this for quite some time
22 now."

23 Do you see that?

24 A. I do.

25 Q. What's the "this" in this sentence?

1 A. This, ICOs, initial coin offerings.

2 Q. The next sentence that you write is:

3 "Ryan and I met with [REDACTED]
4 [REDACTED] in late March on this very
5 subject."

6 Do you see that?

7 A. I do.

8 Q. Okay. And that's your meeting with
9 Mr. Zagone and [REDACTED] that we've discussed?

10 A. That's right.

11 Q. Did you discuss with [REDACTED] ICOs?

12 A. It says here that we did, so I would say
13 we must have.

14 Q. Okay. The next clause in that sentence,
15 you write:

16 "Clarifying a couple of points
17 in their January 2016 white paper
18 in our favor."

19 Do you see that?

20 A. I do see that.

21 Q. Okay. And that's referencing you and
22 Mr. Zagone meeting with [REDACTED] is that right?

23 MR. DRYLEWSKI: Objection to form.

24 THE WITNESS: That appears to be the case.

25 / /

1 BY MR. SYLVESTER:

2 Q. Okay. What points did you clarify with
3 [REDACTED] at your meeting with them?

4 A. I have no recollection.

5 Q. You also mentioned that you and Mr. Zagone
6 helped [REDACTED] understand Ripple's position; is
7 that right?

8 A. I think it's similar to what we talked
9 about earlier. We talked and spoke about a number
10 of different things. And we helped them get a
11 better understanding of Ripple.

12 Q. Okay. You write that you'll be meeting
13 with [REDACTED] again at the [REDACTED]
14 strategy session in New York on May 20th?

15 A. That's right.

16 Q. Did that meeting happen?

17 A. No, it didn't.

18 Q. Why not?

19 A. I broke my leg.

20 Q. Oh, sorry to hear that. Okay.

21 The next paragraph, you write:

22 "Ryan and I also delivered a
23 presentation. We'll look at the
24 Howey test and ICOs."

25 Do you see that?

1 A. I do.

2 Q. That presentation was to MarComm, the XRP
3 team, customer support, [REDACTED] and [REDACTED] last month;
4 that's right?

5 A. That's right.

6 Q. Was that presentation given by you and
7 Mr. Zagone alone?

8 A. [REDACTED] was also present in all of those
9 meetings.

10 MR. DRYLEWSKI: Objection to the form of
11 the last question.

12 THE WITNESS: [REDACTED] being the GC.

13 BY MR. SYLVESTER:

14 Q. Understanding that she was present, did
15 she deliver the presentation?

16 MR. DRYLEWSKI: Objection to form.

17 THE WITNESS: She was involved in the
18 delivery, yes.

19 BY MR. SYLVESTER:

20 Q. In that she consulted on its content?

21 MR. DRYLEWSKI: Objection to form.

22 THE WITNESS: Certainly that, yes, but
23 also spoke at the meeting.

24 BY MR. SYLVESTER:

25 Q. The nature of that presentation, according

1 to this email, is how XRP could be evaluated under
2 the Howey test; is that right?

3 A. That's right.

4 Q. Okay. It says later that you were asked
5 to present that same overview to the entire company.

6 Do you see that?

7 A. I do, yeah.

8 Q. Ultimately, did you present the overview
9 of the Howey test to the entire company?

10 MR. DRYLEWSKI: Objection to form.

11 THE WITNESS: It is unlikely, because I
12 had the broken leg, and so I couldn't walk.

13 BY MR. SYLVESTER:

14 Q. What was the purpose of the presentation
15 that you and Mr. Zagone gave to the number of Ripple
16 teams listed here?

17 MS. ZORNBERG: Okay. You're asking about
18 purpose. So -- on a -- on a presentation as to
19 which the company has asserted privilege. So I
20 would -- I think the question is -- is -- do you
21 want to rephrase the question?

22 I mean, you're -- otherwise, I'm going to
23 instruct the witness not to answer to the extent
24 that the purpose was a subject that she discussed
25 with legal or which she had legal input.

1 BY MR. SYLVESTER:

2 Q. So with that, can you answer?

3 A. No, I can't.

4 Q. Based on Ms. Zornberg's instruction?

5 MR. TENREIRO: How can we create a record
6 of this? Maybe we need to take a break because, you
7 know, just because a lawyer is in the room doesn't
8 make a conversation privileged. She has to be
9 expressing a desire for advice.

10 So if the presentation was, for example --
11 I don't know -- to educate the company, so here's my
12 views, at the very least, that would go in a
13 privilege log.

14 But you're not even letting us ask
15 questions about what the purpose was, so that's a
16 little bit problematic.

17 MS. ZORNBERG: Let's state the specific
18 question. Let me hear it again, and if we need to
19 take a break to supplement the record, we can do
20 that.

21 BY MR. SYLVESTER:

22 Q. What was the purpose of the presentation
23 that you and Mr. Zagone gave to the Ripple teams
24 listed here in this exhibit?

25 MS. ZORNBERG: And you're asking beyond

1 what is actually stated in the unredacted portion of
2 the email that we gave you, which is exactly the
3 kind of thing that would be on a privilege log.

4 It says that it's reviewing how XRP could
5 be evaluated under the Howey test. You have that in
6 the record.

7 So what beyond that are you looking for?
8 Because I feel like the predicate has been
9 established here, but what am I missing?

10 MR. TENREIRO: Well, was she seeking legal
11 advice from Ms. [REDACTED]? Was she sitting there?

12 You can't just put a lawyer in the room
13 and privilege the conversation, and I think we know
14 that.

15 MR. DRYLEWSKI: I don't think that's ever
16 been the testimony, though. We just heard her say
17 that [REDACTED] was not just simply in the room. She
18 was a co-presenter.

19 MR. TENREIRO: Okay. But then can we ask
20 her what she said and not what [REDACTED] said?

21 Unless she's seeking advice from [REDACTED]
22 if she says something to [REDACTED] to seek advice, it's
23 fine. But if she's saying something, just because
24 [REDACTED] is there and also opens her mouth, that does
25 not make it privileged.

1 And we really don't want to have to come
2 back because this is very important, clearly. I
3 think we -- it really behooves us to get to the core
4 of it here rather than have -- because this is
5 something we're going to have to ask her back on.

6 I think you're over-asserting here. Maybe
7 I haven't heard the basis correctly.

8 MS. ZORNBERG: I think you're taking a
9 quite extreme and mischaracterized view of the
10 record to date to try to intimidate a witness --

11 MR. SYLVESTER: Oh, my God.

12 MS. ZORNBERG: -- as to be, you know,
13 possibly be recalled. I think that's inappropriate.

14 I'm happy to take a short break so that I
15 can talk with Ms. O'Gorman and her counsel and come
16 back and we'll deal with your issue.

17 MR. TENREIRO: We're not trying to
18 intimidate any witness.

19 MR. SYLVESTER: Absolutely not.

20 MS. ZORNBERG: Thank you for saying that.

21 But by you sitting here many hours into a
22 deposition and making a record on the record in
23 front of the witness saying, this is something we
24 have to get to the bottom of or we're gonna have to
25 be back here with the witness, I think many people

1 in Ms. O'Gorman's seat would find that intimidating,
2 especially coming from an SEC attorney.

3 MR. TENREIRO: I was saying it to you.

4 MS. ZORNBERG: That should be an
5 off-the-record conversation, not in the presence of
6 a witness.

7 Okay. We'll take a break now, and we'll
8 try to address your concern.

9 THE VIDEOGRAPHER: Off the record at 3:35.

10 (Whereupon, a recess was taken.)

11 THE VIDEOGRAPHER: This is the start of
12 File Number 9.

13 We're back on the record at 3:46 p.m.

14 MS. ZORNBERG: Okay. Counsel, we took a
15 break in light of certain questions and privilege.
16 You had asked for some further information so you
17 could assess the record regarding a privilege issue
18 relating to A023. So I'll make a proffer to you,
19 and we can go from there.

20 The document in question, A023, refers to
21 a presentation and a deck that was used during that
22 presentation to departments or individuals at
23 Ripple.

24 Our understanding, based on facts and
25 based on Ms. O'Gorman's recollection, is that the

1 preparation for that presentation was done by
2 compliance in conjunction with the legal department.

3 The legal department was consulted on the
4 content of the presentation. The deck that was used
5 was prepared in consultation with legal counsel at
6 Ripple. The Howey analysis that ultimately was
7 reflected and incorporated into the deck was
8 informed by Ms. O'Gorman's communications with
9 [REDACTED] and [REDACTED] among others.

10 Ms. O'Gorman also recalls discussing it in
11 advance of the presentation with [REDACTED], who
12 had shortly beforehand become the new general
13 counsel of Ripple. Legal participated in the
14 meeting itself. [REDACTED] was present at the meeting
15 as a participant and spoke to the company
16 department.

17 And the purpose of the presentation was to
18 provide others in the company with a view from legal
19 and compliance together.

20 MR. TENREIRO: View as to?

21 MS. ZORNBERG: Among other things, what is
22 stated here, how XRP could be evaluated under the
23 Howey test.

24 So let me just pause for a moment to ask
25 Ms. O'Gorman if she agrees with the proffer that

1 I've made on the record.

2 THE WITNESS: I agree.

3 MS. ZORNBERG: Okay. On the basis of
4 that, I think we've satisfied your inquiry.

5 MR. SYLVESTER: I agree. Thank you.

6 MS. ZORNBERG: Okay.

7 BY MR. SYLVESTER:

8 Q. Ms. O'Gorman, let's talk about who was at
9 the meeting. There's a list of teams here perhaps
10 that can guide your recollection of who attended.

11 So who attended the meeting that is the
12 topic of the second paragraph of A023?

13 A. MarComm is the marketing communications
14 department. The XRP team is another team. Customer
15 support. [REDACTED] and others,
16 there were also -- maybe that wasn't the prior month
17 but the sales team and biz dev.

18 Q. Was Mr. Schwartz in attendance?

19 A. I don't know about David.

20 Q. Okay. Were the heads of MarComm, the XRP
21 team and customer support present?

22 A. Yes.

23 MS. ZORNBERG: Object to form.

24 You can answer.

25 / /

1 BY MR. SYLVESTER:

2 Q. The very last paragraph of your email to
3 Mr. Griffin says:

4 "Note, the SEC has a
5 50-person-strong working group
6 dedicated to evaluating SEC's
7 potential regulatory authority over
8 certain digital currencies."

9 Do you see that?

10 THE WITNESS: I do, yeah.

11 BY MR. SYLVESTER:

12 Q. How did you learn that?

13 MS. ZORNBERG: Well, you can answer
14 without disclosing communications with Ripple
15 counsel.

16 THE WITNESS: Okay. I believe I may
17 have -- I'm -- actually, I don't recall exactly.
18 May have been the SEC website or an article online.

19 BY MR. SYLVESTER:

20 Q. Did you, while you were Ripple's CCO, keep
21 yourself current on what, if anything, this SEC
22 working group was doing?

23 MR. DRYLEWSKI: Objection to form.

24 THE WITNESS: I didn't keep myself
25 current. It was only if articles within written or

1 published on the matter.

2 BY MR. SYLVESTER:

3 Q. Where did you read those articles?

4 A. Online.

5 Q. Sure.

6 Was there a particular website that you
7 visited that published those kinds of articles?

8 A. It may have been the SEC's website. I
9 couldn't say.

10 Q. Okay. Do you know the identity of any of
11 the people within the 50-person-strong working group
12 referenced in your email?

13 A. I do not.

14 Q. Did you ever try to determine who was a
15 member of those -- that group?

16 A. I don't believe I ever did.

17 Q. Okay. Did you ever try to contact anyone
18 who was a member of that group?

19 A. No.

20 Q. Did you ever ask anyone on your team to
21 contact anyone in that group?

22 A. No --

23 Q. Why not?

24 A. -- to the best of my knowledge.

25 MS. ZORNBERG: Object to form.

1 MR. DRYLEWSKI: Objection to form.

2 THE WITNESS: Didn't -- I don't know why I
3 didn't, but I didn't.

4 BY MR. SYLVESTER:

5 Q. Did you ever consider the possibility of
6 contacting this SEC working group?

7 MR. DRYLEWSKI: Objection to form.

8 And I'm going to instruct you not to
9 answer to the extent that it would reveal any
10 communications that you may have had with Ripple's
11 inside or outside counsel.

12 THE WITNESS: I cannot answer that
13 question based on Alex's statement.

14 BY MR. SYLVESTER:

15 Q. Did you ever instruct anyone not to
16 contact the SEC?

17 A. Did I instruct anyone not to?

18 MS. ZORNBERG: Answer "yes" or "no." You
19 can answer that.

20 MR. DRYLEWSKI: Yeah.

21 THE WITNESS: No, I never did.

22 BY MR. SYLVESTER:

23 Q. While you were Ripple's CCO, did you ever
24 ask anyone at Ripple to stop doing something that
25 they had been doing based on your understanding of

1 the securities laws?

2 MR. DRYLEWSKI: Objection to form.

3 MS. ZORNBERG: Hold on just a moment.

4 That is a very broad and vague question,
5 and it's difficult -- look, if you understand the
6 question and you can answer it without divulging any
7 communications with counsel, Ms. O'Gorman, then you
8 can answer it.

9 MR. DRYLEWSKI: And the question calls for
10 a yes, a no, I don't know or I don't recall.

11 THE WITNESS: I don't recall.

12 BY MR. SYLVESTER:

13 Q. Did you ever -- strike that.

14 We discussed earlier that, on occasion,
15 you reviewed Ripple's public statements before they
16 went out; is that correct?

17 MR. DRYLEWSKI: Objection to form.

18 THE WITNESS: Sometimes.

19 BY MR. SYLVESTER:

20 Q. Okay. Do you recall any occasion where
21 you made a revision to a draft Ripple public
22 statement based upon your understanding of the
23 securities laws?

24 A. I don't recall.

25 MR. DRYLEWSKI: Objection to form.

1 I do want to instruct to you exclude from
2 your answer anything you may have done at the
3 direction of Ripple's counsel.

4 THE WITNESS: Okay.

5 MR. SYLVESTER: Let's look at 24, please.

6 (Whereupon, Deposition Exhibit AO-24
7 was marked for identification.)

8 BY MR. SYLVESTER:

9 Q. So, Ms. O'Gorman, this is an email from
10 Ms. [REDACTED] to you on September 18th, 2017.

11 Do you see that?

12 A. I do.

13 Q. Okay. And attached to this email is a
14 February 27, 2015 memorandum from the law firm [REDACTED]
15 [REDACTED] with the subject line "Analysis of whether
16 XRP is a security for the purpose of federal and
17 state regulation."

18 Do you see that?

19 A. Yeah, I do.

20 Q. Do you recall receiving this email in
21 September 2017?

22 A. I don't.

23 Q. Okay.

24 Do you recall in September 2017 whether
25 you read the attached legal memorandum?

1 A. I don't recall.

2 MS. ZORNBERG: For the record, is this the
3 same attachment that you previously showed the
4 witness and that she said she doesn't recall ever
5 reading?

6 THE WITNESS: It is.

7 Oh, sorry.

8 MR. SYLVESTER: She just answered you.

9 MR. DRYLEWSKI: So the answer is yes,
10 though, Mark?

11 MR. SYLVESTER: The answer -- excuse me,
12 I'm not being deposed. The witness answered the
13 question. Let's move on.

14 MR. DRYLEWSKI: All right.

15 MR. TENREIRO: Well, Lisa, I'll just put
16 on the record, I think the first one was a draft,
17 that Erol had said to us was a draft, so I think
18 this one is -- maybe it's the same in sum and
19 substance --

20 MS. ZORNBERG: This is why I'm asking you,
21 'cause I actually think it's the same one, and I'm
22 asking for clarification. If it's not the same one,
23 maybe you could just clarify.

24 MR. SYLVESTER: Sure.

25 My understanding -- I mean, the same one

1 is hard with an electronic document.

2 It's not the same file that was attached
3 to the earlier email. My understanding from Erol is
4 that it was an identical document.

5 MS. ZORNBERG: It's the same Bates
6 numbers.

7 MR. SYLVESTER: Yes, right. So --

8 MS. ZORNBERG: We pulled them out. It is
9 actually the same identical document that you've
10 already asked the witness about.

11 MR. TENREIRO: So what's your question?

12 MS. ZORNBERG: I'm just trying to help
13 clarify the record. If Mr. Sylvester wants to ask
14 the same line of questions she already answered
15 about the same Bates number, he can, but we'll
16 object on the basis that it has been asked and
17 answered.

18 BY MR. SYLVESTER:

19 Q. Okay. Other than the document that we're
20 discussing here, the attachment to Ms. [REDACTED] email,
21 are you aware of the existence of any other legal
22 memoranda in Ripple's possession on the topic of XRP
23 status under the securities laws?

24 MS. ZORNBERG: And that's a yes-or-no
25 question. He's not asking for the substance of any

1 legal advice, just are you aware of others.

2 THE WITNESS: Yes.

3 BY MR. SYLVESTER:

4 Q. Did you become aware of the existence of
5 those others while you were at Ripple?

6 A. Yes.

7 Q. Who informed you that those legal
8 memoranda existed?

9 MS. ZORNBERG: Just -- may I see -- maybe
10 ask, if you're using a plural.

11 MR. SYLVESTER: Sure.

12 MS. ZORNBERG: -- can you clarify --

13 MR. SYLVESTER: I will. Yes. Sure.

14 Q. Other than the [REDACTED] memo attached
15 to Exhibit 24, how many other memoranda addressing
16 the issue of whether XRP is a security are you aware
17 exists?

18 A. I was aware of one other.

19 Q. Okay. Who told you that that legal memo
20 existed?

21 A. It was written while I was at Ripple.

22 MR. DRYLEWSKI: Hold on. Don't answer
23 anything -- don't give any information other than
24 the question of who told you --

25 THE WITNESS: Oh.

1 MR. DRYLEWSKI: -- about the memo,

2 THE WITNESS: [REDACTED]

3 BY MR. SYLVESTER:

4 Q. Okay. And who wrote the memo?

5 I'm asking which lawyer.

6 MS. ZORNBERG: That's okay.

7 MR. DRYLEWSKI: You can answer the
8 question, if you know, but only that.

9 THE WITNESS: The law firm?

10 MR. DRYLEWSKI: Yes.

11 THE WITNESS: [REDACTED], I believe.

12 BY MR. SYLVESTER:

13 Q. And when did [REDACTED] prepare that
14 memo?

15 A. 2018.

16 Q. Okay. Did you read that memo?

17 A. I read a draft.

18 MR. SYLVESTER: Let's go to Exhibit 25,
19 please.

20 MR. TENREIRO: Twenty-five.

21 (Whereupon, Deposition Exhibit AO-25
22 was marked for identification.)

23 ZOOM PARTICIPANT: Twenty-five, correct?

24 MR. SYLVESTER: Yes.

25 / /

1 Q. So, Ms. O'Gorman, this is an email from
2 Mr. [REDACTED] to you and others dated October 26th,
3 2017.

4 Do you see that?

5 A. I do.

6 Q. Okay. Let me know when you're ready to
7 answer questions.

8 A. I'm ready.

9 Q. Okay. Do you recall receiving this email?

10 A. I don't.

11 Q. Do you have any reason to doubt that you
12 did receive it?

13 A. No.

14 MR. DRYLEWSKI: Objection to form.

15 THE WITNESS: No.

16 BY MR. SYLVESTER:

17 Q. Do you know what Hit BC -- HitBTC is?

18 A. An exchange.

19 Q. Okay. And do you see that a
20 representative of HitBTC appears to be asking
21 someone at Ripple to confirm the legal status of
22 XRP?

23 A. That's correct.

24 Q. Did Ripple ever make that certification to
25 HitBTC?

1 MR. DRYLEWSKI: Objection to form.

2 THE WITNESS: I don't know. I can't say
3 for certain.

4 BY MR. SYLVESTER:

5 Q. What steps, if any, did anyone at Ripple
6 take after receiving this email asking to confirm
7 the legal status of XRP?

8 MS. ZORNBERG: Objection. Lack of
9 foundation.

10 MR. DRYLEWSKI: And instruct you not to
11 answer to the extent it would divulge any
12 communications that you had with Ripple's counsel,
13 inside or outside.

14 THE WITNESS: I -- I can't answer the
15 question based on that.

16 BY MR. SYLVESTER:

17 Q. Based on Mr. Drylewski's instruction?

18 A. That's right.

19 MS. ZORNBERG: Can I just ...

20 MR. SYLVESTER: Let's go off the record.

21 THE VIDEOGRAPHER: Okay. We're off the
22 record at 4:02 p.m.

23 (Whereupon, a recess was taken.)

24 THE VIDEOGRAPHER: This is the beginning
25 of File 10.

1 We're back on the record at 4:04 p.m.

2 BY MR. SYLVESTER:

3 Q. Okay. Ms. O'Gorman, did anyone at Ripple
4 respond to this email in any way?

5 MR. DRYLEWSKI: Objection. Asked and
6 answered.

7 And same instruction.

8 THE WITNESS: Oh. I can't answer that
9 question. Legal was involved.

10 BY MR. SYLVESTER:

11 Q. Okay. That's not the question I'm asking,
12 though.

13 I'm asking if anyone at Ripple
14 responded -- a third-party communication responded
15 to HitBTC?

16 MR. DRYLEWSKI: You can answer the
17 question to the extent you know the fact of whether
18 or not anyone at Ripple answered, but do not divulge
19 the substance of any communications you may have had
20 with Ripple's counsel on that topic, if there were
21 any.

22 THE WITNESS: Okay. Okay.

23 [REDACTED] responded.

24 BY MR. SYLVESTER:

25 Q. Okay. Do you know what Ms. [REDACTED] told

1 HitBTC in response to this email?

2 MR. DRYLEWSKI: I'm going to instruct you
3 not to answer to the extent that it would divulge
4 the substance of any communications you had with
5 Ms. [REDACTED] or any other of Ripple's counsel.

6 THE WITNESS: Then I'm unable to answer
7 that question.

8 MR. SYLVESTER: I just want to stop for a
9 second here and talk to Mr. Drylewski and also
10 Ms. Zornberg.

11 If Ms. [REDACTED] says to Ms. O'Gorman, I told
12 HitBTC XYZ, in my view, that's not a privileged
13 communication.

14 Do you disagree?

15 MS. ZORNBERG: All right. Let's take a
16 quick break. I need to understand the factual
17 predicate for me to assess this.

18 MR. SYLVESTER: Okay. Understood.

19 THE VIDEOGRAPHER: Off the record at 4:06.

20 (Whereupon, a recess was taken.)

21 THE VIDEOGRAPHER: This is the start of
22 File Number 11.

23 We're back on the record at 4:14 p.m.

24 MR. DRYLEWSKI: So, Mark, before we took a
25 break, you asked Ms. O'Gorman questions about any

1 conversations she had with [REDACTED] about [REDACTED] and
2 any questions about whether she understood anyone at
3 Ripple had responded to HitBTC.

4 Ms. O'Gorman would just like to clarify
5 her answers to those last two questions. So if
6 you'd like to ask them again, Ms. O'Gorman can
7 answer them for you.

8 I'm also happy to give you a
9 representation, whichever you'd prefer.

10 MR. SYLVESTER: Let's -- I'll ask them
11 again.

12 THE WITNESS: Okay.

13 BY MR. SYLVESTER:

14 Q. Do you understand whether anyone at Ripple
15 responded to HitBTC?

16 A. I don't recall --

17 Q. You don't know --

18 A. -- specifically --

19 Q. I'm sorry.

20 A. -- specifically HitBTC.

21 Q. Okay. So just so I'm clear, you don't
22 know one way or the other whether Ripple responded
23 to this email?

24 A. I don't recall this particular one, no.

25 Q. Okay.

1 Do you recall any other occasion in which
2 Ripple was asked by an exchange for its views on
3 whether XRP was a security?

4 MR. DRYLEWSKI: Objection to form.

5 THE WITNESS: I have a general
6 recollection.

7 BY MR. SYLVESTER:

8 Q. Which exchange asked for those views?

9 A. I -- I wouldn't be able to say. I
10 couldn't be specific.

11 Q. Do you -- strike that.

12 What did Ripple say in response to any
13 exchange, setting aside HitBTC, that asked whether
14 XRP was a security?

15 MR. DRYLEWSKI: Objection to form.

16 THE WITNESS: Those matters were forwarded
17 to legal for response.

18 BY MR. SYLVESTER:

19 Q. Okay. Focusing just on communications --
20 your knowledge, if any, of communications between
21 Ripple and the exchanges.

22 When exchanges asked Ripple whether XRP
23 was a security, what was Ripple's response to the
24 exchanges?

25 MR. DRYLEWSKI: Objection to form.

1 THE WITNESS: I believe the analysis
2 provided that, based on reviewing the Howey test,
3 was that, at that time, XRP was not considered a
4 security.

5 BY MR. SYLVESTER:

6 Q. To your knowledge, did Ripple ever make
7 that statement to an exchange in writing?

8 MR. DRYLEWSKI: Objection to form.

9 You can answer, if you know.

10 THE WITNESS: They may have. Legal,
11 meaning legal may have.

12 BY MR. SYLVESTER:

13 Q. Sure.

14 I know you don't remember which exchanges
15 are involved, but around when was it that Ripple
16 made the statement that, based on reviewing the
17 Howey test, at that time, XRP was not considered a
18 security?

19 MS. ZORNBERG: Objection.

20 Mischaracterizes the testimony.

21 I think the witness said that legal may
22 have, and that's not what your question just
23 implied.

24 MR. SYLVESTER: I want to back up further.

25 I asked:

1 "When exchanges asked Ripple
2 whether XRP was a security, what
3 was Ripple's response to the
4 exchanges?"

5 And the witness said -- bless you --

6 "I believe the analysis
7 provided, based on reviewing the
8 Howey test, was that, at that time,
9 XRP was not a security."

10 Q. So as to that answer, just the latter
11 part, I just want to know when that happened.

12 A. Over a period of time.

13 Are you looking for a time period?

14 Q. Yes, exactly.

15 A. Okay. I would say -- I don't know
16 specifically when, but around this time, October of
17 2017. Could have been a month before, month after.

18 MS. ZORNBERG: No one's asking you to
19 guess.

20 THE WITNESS: Yeah. I don't know.

21 BY MR. SYLVESTER:

22 Q. Around the time of October 2017 is
23 perfect. That's just fine.

24 MS. ZORNBERG: Object to saying,
25 "October 2017 is perfect."

1 The witness is referring to an email for
2 that date that she's already said she doesn't
3 recall.

4 MR. DRYLEWSKI: The problem is you're
5 asking for very specific answers to very general
6 questions.

7 If you don't remember the time period, say
8 so.

9 MR. SYLVESTER: The witness has testified
10 to her answer. Like, let's move on.

11 Q. Ms. O'Gorman, going back to your answer,
12 which I will read back:

13 "I believe the analysis
14 provided, based on reviewing the
15 Howey test, was that, at that time,
16 XRP was not considered a security."
17 Do you recall giving that answer?

18 A. I did. I do.

19 Q. Okay. Great.

20 What was the basis for your belief that
21 that was the analysis provided?

22 A. General recollection.

23 Q. Did you ever participate in any of those
24 communications with the exchanges?

25 A. I believe all of those matters were

1 handled by legal, to the best of my recollection.

2 Q. So with respect to Ripple's response to
3 exchanges on this topic of whether or not XRP was a
4 security, did you observe Ripple's response in some
5 way, or did you hear about it from someone else?

6 MR. DRYLEWSKI: Objection to form.

7 So again, this is just a general question
8 generally or are you talking about specific
9 instances?

10 BY MR. SYLVESTER:

11 Q. Do you understand the question?

12 If you don't, then let's work on it.

13 A. I do understand the question.

14 Q. Okay.

15 A. And I have just a general recollection. I
16 couldn't say if somebody talked to me, if they -- I
17 just can't say.

18 MR. SYLVESTER: All right. Let's move to
19 Exhibit 26, please.

20 (Whereupon, Deposition Exhibit AO-26
21 was marked for identification.)

22 MR. TENREIRO: Twenty-six.

23 ZOOM PARTICIPANT: The exhibit, please?

24 MR. TENREIRO: Two-six.

25 ZOOM PARTICIPANT: Excuse me?

1 MR. SYLVESTER: Two, six.

2 ZOOM PARTICIPANT: Your voice just went
3 totally black.

4 MS. ZORNBERG: Two-six.

5 ZOOM PARTICIPANT: Thank you.

6 BY MR. SYLVESTER:

7 Q. All right. Ms. O'Gorman, Exhibit 26 is an
8 email from [REDACTED] at The

9 [REDACTED] CC to you and others, sent on

10 December 21st, 2017.

11 Do you see that?

12 A. I do.

13 Q. Okay.

14 Do you recall receiving this email?

15 A. I do.

16 Q. Do you see that the attachment to the
17 email is entitled "Subject: How we talk about XRP,"
18 from your legal department?

19 A. I do.

20 Q. Okay. Have you seen that attachment prior
21 to December 21st, 2017?

22 A. I don't recall seeing it before then.

23 Q. To whom, if anyone, at Ripple was this
24 attachment distributed?

25 MR. DRYLEWSKI: Objection to form.

1 THE WITNESS: Do you mean apart from the
2 people cc'd?

3 BY MR. SYLVESTER:

4 Q. That's right.

5 A. I wouldn't know.

6 Q. Are you aware of any Ripple employee using
7 the term "Ripple XRP" -- strike that.

8 Ripple's XRP?

9 A. They may have.

10 Q. Did any Ripple employee ever use the term
11 "Ripple's XRP" in your presence?

12 A. They may have. I don't recall
13 specifically.

14 Q. Okay. During your tenure at Ripple, do
15 you recall anyone at Ripple saying, "We are working
16 hard to increase the price of XRP"?

17 A. I don't.

18 Q. And --

19 MS. ZORNBERG: Mr. Sylvester, are you
20 referring in these questions to the document?

21 MR. SYLVESTER: I'm just asking her -- I'm
22 asking her whether, from her recollection, she
23 recalls hearing anyone say these phrases.

24 MS. ZORNBERG: Okay.

25 / /

1 BY MR. SYLVESTER:

2 Q. I do want to clarify your last answer,
3 because I want to make sure I understand it.

4 You don't recall ever hearing anyone say
5 "We're working harder to -- hard to increase the
6 price of XRP"; is that right?

7 A. I don't recall that, no.

8 Q. Okay. Do you recall anyone at Ripple
9 saying that XRP is a strong, long-term investment?

10 A. I don't recall.

11 Q. Okay. While you were at Ripple, do you
12 recall anyone at Ripple referring to trading in
13 Ripple?

14 A. I hope not. I don't recall.

15 Q. Okay. And have you ever -- do you
16 recall -- strike that.

17 When you were at Ripple, do you recall any
18 Ripple employee saying, we're up a certain
19 percentage today, in a reference to the percentage
20 increase in XRP's price?

21 A. I don't recall.

22 Q. Did you -- while you were at Ripple, did
23 you ever hear any holders of XRP speaking about the
24 price of XRP?

25 MR. DRYLEWSKI: Objection to form.

1 THE WITNESS: I did.

2 BY MR. SYLVESTER:

3 Q. Okay.

4 Who was it that you can recall that was a
5 holder of XRP speaking about the price of XRP?

6 MR. DRYLEWSKI: Objection to form.

7 THE WITNESS: I can't say anyone
8 specifically. I don't recall.

9 BY MR. SYLVESTER:

10 Q. Was it -- how did you come to learn that
11 there was an XRP holder that was speaking about the
12 price of XRP?

13 MS. ZORNBERG: Objection. Lack of
14 foundation.

15 THE WITNESS: Oh, am I supposed to answer?

16 BY MR. SYLVESTER:

17 Q. Yeah. Go ahead, you can answer it again.

18 MS. ZORNBERG: If you can.

19 THE WITNESS: I'm sorry, can you repeat
20 the question?

21 BY MR. SYLVESTER:

22 Q. Sure.

23 So I asked, while you were at Ripple, did
24 you ever hear any holders of XRP speaking about the
25 price of XRP?

1 And you said, I did.

2 A. Um-hmm.

3 Q. I'm just trying to figure out where you
4 heard XRP holders speaking about the price of XRP.

5 A. They could have been just general
6 conversations, informal conversations. Many at the
7 company owned XRP.

8 Q. I see.

9 So when you answered my question you did
10 hear holders of XRP speaking about the price of XRP,
11 you were referencing Ripple employees; is that
12 right?

13 MR. DRYLEWSKI: Objection to form.

14 THE WITNESS: That's what I thought you
15 were asking, yes.

16 BY MR. SYLVESTER:

17 Q. And what did those Ripple employees say
18 about the price of XRP?

19 MS. ZORNBERG: Objection. Lack of
20 foundation.

21 THE WITNESS: Speaking very generally,
22 they might have said that XRP is X price today.

23 BY MR. SYLVESTER:

24 Q. In what context did you have conversations
25 with Ripple employees about the price of XRP?

1 MR. DRYLEWSKI: Objection to form.

2 THE WITNESS: In what context?

3 BY MR. SYLVESTER:

4 Q. Mh-hmm.

5 A. Very informal. You know, chatting.

6 Q. How about the phrase, we're up X
7 percentage today, referring to the increase in XRP's
8 price, did you hear anyone at Ripple use that
9 phrase?

10 A. I don't recall that, no.

11 Q. Turning to the first page of this
12 attachment?

13 MS. ZORNBERG: The first page of the
14 exhibit?

15 MR. SYLVESTER: The first page of the
16 attachment to the email, so ending -4330.

17 Q. Ms. O'Gorman, do you see where the fourth
18 paragraph starts with the word "To"?

19 A. Yes.

20 Q. Okay. In that paragraph, the second
21 sentence says:

22 "So how we talk about XRP will
23 inform regulators' understanding of
24 XRP, which will in turn inform
25 their treatment of XRP."

1 Do you see that?

2 A. Yes.

3 Q. Okay. The next sentence says:

4 "In particular, we want to be
5 careful that XRP isn't
6 misunderstood as a security
7 belonging to Ripple."

8 Do you see that?

9 A. I do.

10 Q. Are you aware, during your tenure at
11 Ripple, of any instances of anyone misunderstanding
12 that XRP was a security?

13 MR. DRYLEWSKI: Objection to form.

14 THE WITNESS: I'm not aware.

15 BY MR. SYLVESTER:

16 Q. At the very bottom of the page that we're
17 looking at right now ending in -4330, the sentence
18 is:

19 "If you have any questions,
20 please reach out to legal or
21 compliance."

22 Do you see that?

23 A. I do.

24 Q. Did anyone at Ripple ever reach out to you
25 with questions about what they could or could not

1 say about XRP?

2 MR. DRYLEWSKI: Objection to form.

3 THE WITNESS: Not to my recollection.

4 BY MR. SYLVESTER:

5 Q. Did -- do you -- did you ever discuss with
6 Mr. Garlinghouse what Ripple could or could not say
7 about XRP?

8 MR. DRYLEWSKI: Objection to form.

9 MS. ZORNBERG: I would also instruct that
10 you can answer the question, but not to the extent
11 that it involves disclosing conversations that
12 either you or Mr. Garlinghouse had with counsel.

13 MR. DRYLEWSKI: The question calls for a
14 yes, no, I don't know, I don't recall.

15 THE WITNESS: Yes.

16 BY MR. SYLVESTER:

17 Q. During those discussions, was counsel
18 present?

19 MR. DRYLEWSKI: Objection to form.

20 THE WITNESS: Sometimes.

21 BY MR. SYLVESTER:

22 Q. Okay. Setting aside the occasions when
23 counsel was present, what, if anything, did
24 Mr. Garlinghouse ask you about what Ripple could or
25 could not say about XRP?

1 MS. ZORNBERG: So hold on just a moment.

2 I think the preliminary question, just to
3 help, on the privilege record is whether you can
4 distinguish clearly in your mind conversations you
5 had with Mr. Garlinghouse on this subject when
6 counsel was present versus when counsel was not
7 present.

8 Are you able to do that in a way that's
9 specific to your recollection?

10 If not, I would direct the witness not to
11 answer.

12 THE WITNESS: Mh-hmm. I wouldn't be able
13 to do that, so I wouldn't be able to answer that
14 question.

15 BY MR. SYLVESTER:

16 Q. Did Mr. Garlinghouse ever reach out just
17 to you with a specific question about what Ripple
18 could or couldn't say about XRP?

19 MR. DRYLEWSKI: Objection to form.

20 THE WITNESS: I don't recall. He may
21 have.

22 BY MR. SYLVESTER:

23 Q. Did Mr. Larsen ever reach out to you, just
24 you, with a specific question about Ripple -- what
25 Ripple could or couldn't say about XRP?

1 MR. DRYLEWSKI: Objection to form.

2 THE WITNESS: I don't recall.

3 MR. SYLVESTER: Let's move to 27, please.

4 (Whereupon, Deposition Exhibit AO-27
5 was marked for identification.)

6 BY MR. SYLVESTER:

7 Q. So, Ms. O'Gorman, this is an email from
8 you to [REDACTED] and Ryan Zagone dated
9 November 3rd, 2017.

10 Do you see that?

11 A. I do.

12 Q. Okay. I should say, that's the top email
13 in a thread of emails.

14 Do you see that?

15 A. I do.

16 Q. Okay. It appears that the bottom email is
17 Mr. Vias sending a message to Mr. Griffin discussing
18 Coinbase digital asset framework?

19 A. That's what it appears to be, yes.

20 Q. Apart from this email, do you recall
21 reading the Coinbase digital asset framework when it
22 was released?

23 A. I do.

24 Q. Okay.

25 And outside of this email, again, did you

1 discuss the Coinbase digital asset framework with
2 anyone at Ripple?

3 MR. DRYLEWSKI: Objection to form.

4 And exclude from your -- well, objection
5 to form.

6 You can answer it "yes," "no," "I don't
7 know" or "I don't recall."

8 THE WITNESS: Yes. Yes.

9 BY MR. SYLVESTER:

10 Q. Okay. Did you discuss -- did you discuss
11 the Coinbase digital asset framework with anyone at
12 Ripple outside of counsel?

13 A. Yes.

14 Q. Who?

15 A. Chris Larsen, Patrick Griffin,
16 Brad Garlinghouse.

17 Q. Okay. Starting with your conversation
18 with Mr. Larsen, what did you say to Mr. Larsen
19 about the Coinbase digital asset framework?

20 A. I don't recall specifically.

21 Q. What did Mr. Larsen say to you about the
22 Coinbase digital asset framework?

23 MR. DRYLEWSKI: And I'm going to instruct
24 you not to answer to the extent that you understand
25 that Mr. Larsen was reflecting any substantive

1 conversations he had had with Ripple's counsel.

2 THE WITNESS: I won't be able to answer
3 that question, then.

4 BY MR. SYLVESTER:

5 Q. Based on counsel's instruction?

6 A. That's right.

7 Q. When was this conversation with Mr. Larsen
8 about the Coinbase framework?

9 A. Around the time they came out with it, I
10 would imagine.

11 Q. About the time that Coinbase released the
12 framework?

13 A. That's right.

14 Q. Did you have your conversations with
15 Mr. Griffin and Mr. Garlinghouse around that same
16 time period?

17 A. Yes.

18 Q. Moving to your conversation with
19 Mr. Griffin --

20 A. Yeah.

21 Q. -- what did you say to Mr. Griffin in your
22 conversation with him about the Coinbase framework?

23 A. I don't recall.

24 Q. Okay. What did Mr. Griffin say to you?

25 MR. DRYLEWSKI: Same instruction as the

1 last one.

2 THE WITNESS: Yeah. I don't recall.

3 BY MR. SYLVESTER:

4 Q. Your testimony is you don't recall what
5 Mr. Griffin said to you; that's right?

6 A. Mh-hmm. That's true.

7 Q. Moving on to your conversation with
8 Mr. Garlinghouse, what did you say to
9 Mr. Garlinghouse about the Coinbase framework?

10 MS. ZORNBERG: You can answer as long as
11 you're not disclosing conversations with counsel.

12 THE WITNESS: Mh-hmm. I made him aware of
13 it.

14 BY MR. SYLVESTER:

15 Q. What did you tell him about it?

16 A. That a paper had been issued.

17 Q. Anything else?

18 A. I don't recall.

19 Q. And what did Mr. Garlinghouse say to you
20 about the Coinbase framework?

21 MR. DRYLEWSKI: Same instruction as last
22 time.

23 THE WITNESS: Yeah. I can't answer that
24 question on the advice of counsel.

25 / /

1 BY MR. SYLVESTER:

2 Q. Coinbase's framework for digital assets
3 involved a rating system; is that right?

4 A. That's true.

5 Q. Okay. What was the rating -- what was the
6 purpose of that rating system?

7 MR. DRYLEWSKI: Objection to form.

8 THE WITNESS: To determine whether or not
9 an asset could be considered a security.

10 BY MR. SYLVESTER:

11 Q. Okay. Are you aware of what rating
12 Coinbase gave XRP?

13 A. I am not.

14 Q. Were you aware -- understanding you're not
15 aware today, were you ever aware of the rating that
16 Coinbase gave XRP?

17 A. I was not, no.

18 Q. Do you know if anyone at Ripple was aware
19 of the rating that Coinbase gave XRP?

20 MR. DRYLEWSKI: Objection to form.

21 THE WITNESS: I was not aware.

22 BY MR. SYLVESTER:

23 Q. Going back to your conversation with
24 Mr. Larsen on the topic of the Coinbase framework,
25 is it your understanding that what Mr. Larsen said

1 to you on the topic was informed with his -- by his
2 conversations with counsel?

3 MS. ZORNBERG: And can I just also, to
4 help with this, I think here's what Mr. Sylvester is
5 trying to get at. If you -- if you -- if you don't
6 remember what Mr. Larsen said to you at all, then
7 it's fine. Then you should -- you can indicate
8 that. If you --

9 MR. TENREIRO: Wait. You can't instruct
10 her -- you can't coach her like that. She already
11 answered by saying, I cannot answer based on the
12 instruction.

13 MS. ZORNBERG: I'm trying to clear up what
14 is not clear in the record, because she answered
15 based on an instruction without indicating whether
16 or not she recalled his answer but had a view that
17 it was informed by counsel or something else.

18 I'm actually trying to help you make a
19 clearer record.

20 MR. TENREIRO: And maybe you shouldn't say
21 that in front of her.

22 But go ahead.

23 MS. ZORNBERG: Okay. Look, Ms. O'Gorman
24 knows she has an obligation to tell the truth.

25 If your truthful response is that you have

1 a recollection, you should say "yes" or "no," I have
2 a recollection that Mr. Larsen -- of what Mr. Larsen
3 said to me in response.

4 And then we can go to step two, which is
5 to have -- which we might have to take a break to
6 assess, but which is whether you have a basis to
7 understand that his statements to you were informed
8 by communications with counsel, which is what
9 Mr. Sylvester's trying to probe.

10 So I just think we should break it into
11 two pieces so we can better clarify the record and
12 any basis for privilege.

13 THE WITNESS: And so where are we now,
14 Chris Larsen or Brad Garlinghouse?

15 BY MR. SYLVESTER:

16 Q. Let's start with Mr. Larsen.

17 A. Okay.

18 Q. You had a conversation with Mr. Larsen
19 about the Coinbase report?

20 A. I did.

21 Q. Okay. Do you recall what Mr. Larsen said
22 to you?

23 A. I don't recall.

24 Q. Okay. Moving on to the conversation with
25 Mr. Garlinghouse about the Coinbase framework, do

1 you have a recollection of what Mr. Garlinghouse
2 said to you?

3 A. I don't.

4 Q. Okay. Other than the three people that we
5 just mentioned, Mr. Griffin, Mr. Garlinghouse,
6 Mr. Larsen, did you talk with anyone else at Ripple
7 about the Coinbase framework?

8 A. I don't recall.

9 Q. Okay. Turning back to the exhibit in
10 front of us, Mr. Vias says, in his second paragraph,
11 the last line:

12 "Either way, below are the
13 sections which stood out as
14 possibly challenging for XRP."
15 Do you see that?

16 A. What page are we on now?

17 Q. Sorry. First page, bottom of the first
18 page --

19 A. Okay.

20 Q. -- second paragraph of Mr. Vias' email.

21 A. I see that, yes.

22 Q. Okay. And then he goes on to list a
23 number of sections.

24 Do you see that?

25 A. I do.

1 Q. Do you recall ever discussing with
2 Mr. Vias whether these sections would be possibly
3 challenging for XRP?

4 A. I don't recall any discussion with him on
5 this.

6 Q. Sitting here today, do you believe that
7 the sections that Mr. Vias lists in his email
8 present possible challenges for XRP's classification
9 as a security?

10 MR. DRYLEWSKI: Objection to form and
11 calls for a legal conclusion.

12 MS. ZORNBERG: Also, object in that I
13 don't think the witness has been given the time to
14 read through the full document, which you're now
15 asking her to comment on today.

16 MR. SYLVESTER: Yeah. I wasn't asking her
17 about her read of the entire document; I was asking
18 her read just of Mr. Vias' email.

19 MS. ZORNBERG: Objection.

20 THE WITNESS: Could you repeat the
21 question, please.

22 BY MR. SYLVESTER:

23 Q. Sure.

24 Do you believe that the sections that
25 Mr. Vias lists in his email present possible

1 challenges for XRP's classification as a security?

2 MR. DRYLEWSKI: Objection to form. That
3 calls for a legal conclusion.

4 THE WITNESS: I -- based on this
5 information here, it's not enough information to
6 make any conclusion. There's not enough here.

7 BY MR. SYLVESTER:

8 Q. While you were CCO, did Ripple make any
9 efforts to list XRP on Coinbase?

10 MS. ZORNBERG: Object to form.

11 THE WITNESS: I was aware, yes.

12 BY MR. SYLVESTER:

13 Q. Just for clarity, you were aware of the
14 efforts that Ripple made with respect to listing XRP
15 on Coinbase?

16 A. I was aware that Ripple had spoken with
17 Coinbase.

18 Q. Who at Ripple spoke with Coinbase?

19 A. I can't say exactly, but I think it says
20 it here in this email, doesn't it?

21 Brad recently met with Coinbase's VP of
22 ops.

23 Q. Did you speak with Mr. Garlinghouse about
24 his meeting with Coinbase?

25 A. We may have discussed it at leadership

1 meetings.

2 Q. What did Mr. Garlinghouse say about his
3 meetings with Coinbase?

4 MS. ZORNBERG: You can answer only to the
5 extent that the conversation was not a conversation
6 that involved the seeking or discussion of legal
7 advice at the leadership meeting.

8 THE WITNESS: So I don't think I can
9 answer that question.

10 MR. SOLOMON: This is back to Lisa's
11 point. She said, "We may have discussed it," and
12 then you asked, "What did Mr. Garlinghouse say?"

13 So there's a question in between those two
14 and up to you guys, but for clarity of the record,
15 you may want to consider asking it, because now it's
16 completely ambiguous.

17 The question would be, do you recall a
18 discussion at a leadership meeting with Brad on the
19 topic of a potential listing with Coinbase?

20 It's up to you.

21 BY MR. SYLVESTER:

22 Q. Did Mr. Garlinghouse ever tell you
23 anything about his meetings with Coinbase?

24 MS. ZORNBERG: Okay. Again, you can
25 answer, but if your recollection is only at a

1 leadership meeting, then there have to be some more
2 predicate questions so we can assess the privilege.

3 Can I ask you, Mr. Sylvester, to start
4 with outside of leadership meetings does she recall?

5 MR. SYLVESTER: Outside the presence of
6 counsel, how about that?

7 MS. ZORNBERG: Okay.

8 BY MR. SYLVESTER:

9 Q. Outside the presence of counsel, did
10 Mr. Garlinghouse ever convey to you what he said at
11 meetings with Coinbase?

12 A. I don't recall.

13 Q. Are you aware of any efforts that Ripple
14 made to persuade Coinbase that XRP was not a
15 security?

16 MR. DRYLEWSKI: Objection to form.

17 THE WITNESS: I'm not aware.

18 MR. SYLVESTER: Let's move to 29, please.

19 (Whereupon, Deposition Exhibit AO-29
20 was marked for identification.)

21 BY MR. SYLVESTER:

22 Q. Okay.

23 ZOOM PARTICIPANT: Exhibit number?

24 MS. ZORNBERG: Two-nine.

25 ZOOM PARTICIPANT: Two-nine. Thank you.

1 BY MR. SYLVESTER:

2 Q. Ms. O'Gorman, I'm looking at Exhibit 29,
3 which is an email from you dated February 8th,
4 2018.

5 Do you see that?

6 A. I do.

7 Q. Have you had a chance to review this
8 document?

9 A. I have.

10 Q. Okay. The "To" line is to undisclosed
11 recipients.

12 From the context of the document, do you
13 know to whom you sent this email?

14 MR. DRYLEWSKI: Objection to form.

15 THE WITNESS: I don't know.

16 BY MR. SYLVESTER:

17 Q. Do you know if there was any internal list
18 within Ripple, like an email list, that was called
19 "Undisclosed Recipients"?

20 A. I don't know of it.

21 Q. Do you know whose email address
22 [REDACTED] com is?

23 A. Yes, I do.

24 Q. Whose email address is that?

25 A. [REDACTED] the CEO.

1 Q. CEO of what?

2 A. Of [REDACTED]

3 Q. And [REDACTED] is on the Bcc line; is that
4 right?

5 A. That's right.

6 Q. Why did you send this email via Bcc to
7 [REDACTED]

8 MR. DRYLEWSKI: Objection to form.

9 THE WITNESS: I honestly have no idea why
10 I did that.

11 BY MR. SYLVESTER:

12 Q. Excising the Bcc portion, why did you send
13 this email to [REDACTED]

14 MR. DRYLEWSKI: Objection to form.

15 THE WITNESS: Why did I?

16 BY MR. SYLVESTER:

17 Q. Mh-hmm.

18 A. He is an investor in Ripple. He was -- I
19 sent it to members of the board, to certain
20 investors.

21 Q. You sent this email to members of the
22 board?

23 A. Yeah.

24 Q. And you sent this email to certain
25 investors?